

*Resolved* by the Tribal Business Council of the Three Affiliated Tribes that all agencies involved with the placement of Indian children in foster homes place such children with Indian families wherever and whenever possible.

Adopted September 9, 1971.

OGLALA SIOUX

Whereas, Many of our Oglala Sioux Indian children have been placed in foster-home care with non-Indians; and

Whereas, This placement of our Indian children has resulted in many cases in adoption of our Indian children to non-Indian people, thus causing our Indian children to lose their identity as Oglala Sioux; and

Whereas, We have many Oglala Sioux parents who are capable and qualified to properly care for our Indian children, making it possible for our Indian children to associate themselves with their own race and learn their own culture; and

Whereas, If our Indian children are placed with members of our own race, not only will our children benefit by this association but it would also be an incentive for the Indian families to assume responsibility and develop themselves to a point where perhaps in time they can become self-sufficient; and

Whereas, The State Welfare Department and the BIA Welfare Department have both stated, that they would continue to place our Indian children in non-Indian homes for foster care purposes, unless they received a direction from the Oglala Sioux Tribal Council; now therefore be it

*Resolved* by the Oglala Sioux Tribal Council in Regular Session on this 17th day of August, 1972; that, the Tribal Council feels that in order to protect the rights of the children and to encourage the concern of the adult members of the Tribe, that henceforth the placement of Indian children with non-Indians by the State and BIA Welfare Departments cease. Be it further

*Resolved*. That the Crazy Horse Planning Commission take immediate steps to develop a Foster Child Care Program and to further initiate a study for family development.

Mr. HIRSCH. I also request that we be able to submit further documents at a later date.

Senator ABOUREZK. The record will stay open for 2 weeks, so you can submit additional statistical information.

Mr. HIRSCH. Statistical, and I also have, what might be of interest to the committee, some legal documents, for example, the Petition for Neglect in Margaret Townsend's case, which I think is particularly revealing; and I have other legal papers of that nature.

Senator ABOUREZK. Fine. They will be accepted for the file and the decision as to whether they will be put into the record or not will be up to the committee itself and the staff.

Thank you very much.

The next witness is Dr. James Shore of Portland, Oreg.

Dr. Shore, we would like to welcome you to the Senate committee. We would like to thank you for coming out from Oregon to present your testimony.

Did you plan on reading your entire statement?

Dr. SHORE. No. I did not, I will abbreviate it.

Senator ABOUREZK. Fine, we appreciate that.

**STATEMENT OF DR. JAMES H. SHORE, PSYCHIATRY TRAINING PROGRAM, PORTLAND, OREG.; ACCOMPANIED BY WILLIAM W. NICHOLLS, DIRECTOR, TRIBAL HEALTH PROGRAM, CONFEDERATED TRIBES, WARM SPRINGS RESERVATIONS**

Dr. SHORE. Senators, at the present time, I am director of the community psychiatry training program for psychiatric residents in the State of Oregon and associate professor at the University of

Oregon Medical School. Formerly I was chief of mental health programs for the Indian Health Service in the Pacific northwest area, including the States of Washington, Oregon, and Idaho from 1969 through 1973.

I'm also a member of the Indian Affairs task force of American Psychiatric Association.

I should add at the beginning, the statement that I will present here will also be discussed at the annual meeting of the American Psychiatric Association meeting in Detroit at the end of this year.

I would like to recognize Mr. William Nicholls, who is the director of the tribal health program of the Confederated Tribes of the Warm Springs Reservation, in Oregon, who with his tribal health program staff has helped me to prepare this statement.

Senator ABOUREZK. Is he here now?

Dr. SHORE. He is not here now.

There was an old Indian custom among plateau tribes of the Pacific northwest that exemplified community responsibility for child care. The tradition concerned an individual called the Whipper Man who was outside of the immediate family. The Whipper Man was a highly respected person. Respect was shown by the elders and the young. However, this respect had to be earned. He was chosen by tribal leaders and relatives, based on the development of character beyond reproach. The Whipper Man functioned in the role of disciplinarian. He disciplined youngsters if they were disrespectful to elders. This discipline was administered in a very positive sense, and was understood by young and old. The whip he used hung over the door or on the wall, and was the omnipresent symbol reminding the children that the Whipper Man might be coming.

The plateau culture of central Oregon has demonstrated the impact of the communities sponsorship on the effectiveness of Indian child care.

After 2 years of intensive planning, a children's group home was opened. The development of this service has taken place under the sponsorship of the tribal council with mental health consultation from the Indian Health Service and support from other agencies. A child neglect committee of community participants had been functioning for several years with official tribal council endorsement and had established the precedent for community initiative in making decisions for the placement of Indian children. At the time the group home opened, there were 219 Indian children under age 18 who were not living with their natural parents. These children were part of the total youth population of approximately 800 under 18 years of age. The children in placement represented 28 percent of the total youth population. Of this number 74, 34 percent, were in foster care placement with the State children's services agency, 47, 21 percent, were in boarding schools, and the remainder in tribal foster homes or other off-reservation homes. Local homes were not licensed and received few if any services. Children were removed from their family homes because of complaints of neglect or abandonment. In 1971 and 1972, the number of new Indian children placed in foster homes were 40 and 30 respectively. In 95 percent of cases, this was directly related to alcohol misuse of their parents. Child abuse or battered child syndrome was virtually unknown and in my experience, very rare among American Indians.

The tribal child care services were developed to include intensive outreach family counseling in addition to the group home for Indian youth. The group home was designed to provide short-term shelter care, long-term placement, counseling and minor medical treatment for Indian children ranging from 1 to 18 years. Staff for the group home and the outreach family counseling program were 90 percent Indian, most of whom came from the local community. In the first 12 months of operation, 246 Indian children from 135 separate families were placed in the facility. This represented 20 percent of all reservation families. The children ranged in age from 2½ weeks to 19 years. Problems related to excessive drinking by the parents accounted for greater than 90 percent of the placements. Child behavior difficulties such as juvenile delinquency and runaway reactions, or significant medical problems accounted for the remainder of the placements. During the first 7 months of operation, four children were placed in the center for care of a major medical problem. One child was placed for a cleft palate and three for failure to thrive. All of these children improved and were subsequently returned to their families.

In the 5 preceding years, a large number of Indian children under 18 had been detained in the tribal jail for acts of delinquency. These children numbered 77 in 1967, 98 in 1968, 121 in 1969, 118 in 1970, and 120 in 1971. In one case the length of detention was 32 days. At least 25 percent of juvenile arrests have been for a drinking violation. For many others, delinquent behavior was associated with drinking problems of one or both parents. Although referrals to jail have continued since the opening of the tribal child care center, the average length of stay has been reduced to 1 day and many children are referred immediately from jail to the center, while others bypass the jail entirely. On only one occasion has it been necessary for the center's staff to refer an adolescent back to jail. This was because of an uncontrollable runaway.

Through clinical experience on this and other Indian reservations, I have encountered a sense of hopelessness and despair in working with Indian parents about problems of alcohol misuse and child neglect. Once placement of the children has been initiated, Indian parents often withdraw, become depressed and begin or resume intensive drinking. This process is often interpreted by the non-Indian outsider as a further lack of concern for Indian children, as additional evidence of instability.

The development of a community resource, where children can be adequately cared for in close proximity to their parents, is an essential step in program development. This must be combined with an outreach program by Indian counselors to keep parents involved. The decision to place Indian children is now made by the Indian community with due process through the tribal courts. If placement is necessary, the impact is minimized by a clearly stated policy of returning children to their own families within a short period of time. Although some children may need off-reservation placements in individualized treatment plans, the initial success of the program is highlighted by a dramatic reduction of off-reservation referrals. Since the opening of the children's group home in January 1973, only one Indian child has been placed off reservation in a non-Indian foster home. Many additional Indian families have received outreach services before placement was indicated. Most children referred to

the group home have been returned to their parents who are receiving outpatient followup, while some children have been placed in reservation-sponsored foster homes.

Greater mental health efforts must begin with the preschool or elementary age child. Family stability is the essential aim concerning the construction of a chain of preventive adjustments.

The children's group home and the family outreach program under tribal sponsorship are essential links to begin this process within the cultural values and the political sanctions of the Indian community.

I have reported on the successful efforts by one Indian tribe to deal with the issue of the loss of their Indian youth. While one community has been successful, most other tribes in the Pacific Northwest that I have worked with, and tribes throughout the country, have not been able to reverse the process that destroys Indian families.

I would like to list three areas for possible consideration to reverse this process. A change in the chronic and legal entanglements that Indian families often encounter and a return of this due process to the tribal court. Sufficient concern for funding for Indian child care programs with contracts to sponsorship by the tribal councils, and an increased emphasis over the resources available through Federal and State agencies, with clearly stated guidelines that those resources must be for the care of Indian children. Thank you.

Senator ABOUREZK. Dr. Shore, thank you very much.

I understand that you have developed, or helped to develop, one of the very few ongoing tribally run child welfare programs in the United States and it has been very successful. I think what we've learned from you today and what more we learn from how the program is run, it may represent a very useful model for Congress to develop legislation of this type and for the Federal bureaucracy to use as a model as well.

I notice in your full statement that you talk about the battered child syndrome as being virtually unknown in your experience. However, that particular syndrome has received a considerable amount of attention in media in recent years, you may well know. You, as well as the other experts who have testified here today, have said that in Indian communities throughout the country the syndrome is virtually unknown. How do you account for the difference in the treatment of children between Indians and non-Indians? And, by that, do you know the rate of child beating and child abuse in the non-Indian communities around the country?

Dr. SHORE. I think there are several cultural things that might contribute to that, although I don't think they fully account for it.

One is the relationship between the Indian child and the Indian parent and the particular kind of respect that the Indian parent has for his child. It is seen much earlier as someone capable of independence, making his own decision, and assuming responsibility.

Someone who, at a very early age, is capable and deserves the kind of respect that in the non-Indian culture we often reserve only for our peers in adult years.

In most cases, the traditional Indian sanction is against physical abuse of children. This works against Indian people through the perception of non-Indian outsiders, they think that they don't use strict forms of physical discipline at different levels, far short of child abuse, and are more nonaggressive in raising youngsters.

I think it is one of the concepts, one of the misconceptions of non-Indian outsiders and they tend to judge the competency of Indian parents with non-Indian child rearing practices.

Senator ABOUREZK. You're back again to what we continue to hear, especially today, that welfare agencies that deal with Indian families really don't understand what is happening with the Indian families themselves, and they might judge their behavior by the behavior of white families or non-Indian families.

Dr. SHORE. I certainly think that's one element in the process that we're discussing today; yes.

Senator ABOUREZK. Would you agree that perhaps the Department of Health, Education, and Welfare, which has jurisdiction over distributing money to welfare agencies throughout the State and the county, that perhaps they ought to, as soon as possible, develop criteria and guidelines and use that as money leverage to prevent the welfare from being so insensitive?

Dr. SHORE. I would definitely agree to that, and I would go on to point out in the funding of the one program that we were successfully able to put together in the last 4 years in the Northwest, and there are many other tribes that have worked on similar projects and could not get the funding together to do it, that HEW through child welfare funds is not participating. The State is not contributing through HEW Federal funds in support of these programs.

Senator ABOUREZK. I wonder if I might just ask out of curiosity, is there anybody here from the Department of Health, Education, and Welfare in the audience?

That's unfortunate.

Dr. Shore, I want to express my gratitude for the excellent testimony presented today. It fits in very well with the other experts who have testified today. The committee is very grateful, and I personally am. I sincerely hope that we can correct this situation just as soon as possible.

Dr. SHORE. Thank you.

I may add one thing in closing. I've chosen this particular statement, in this statement, not to get involved in the Indian child and adolescent in boarding schools, but in many ways the situations described in terms of need for the reservation foster home and any youngster being referred to a boarding school, there is additional material, as other witnesses have, on that due process, and I will be happy to submit those to the committee.

Senator ABOUREZK. We would very much like to have that. The record will be open for 2 weeks, so you can send it in. Thank you.

[The prepared statement of Dr. Shore and Mr. Nicholls follows:]

James H. Shore, M.D.<sup>1</sup>

and

William W. Nicholls, M.S.W.<sup>2</sup>

1. Director, Community Psychiatry Training Program and Associate Professor of Psychiatry, Department of Psychiatry, University of Oregon Medical School, Portland, Oregon.  
Dr. Shore was formerly Chief, Mental Health Office, Portland Area Indian Health Service.
2. Director, Health, Welfare and Social Services, Confederated Tribes of The Warm Springs Reservation, Warm Springs, Oregon.

### Indian Youth and Tribal Group Homes, A Whipper Man

There was an old Indian custom among the Plateau tribes of the Pacific Northwest that exemplified community responsibility for child care. The tradition concerned an individual called the Whipper Man who was outside of the immediate family. The Whipper Man was a highly respected person. Respect was shown him by the elders and the young. However, this respect had to be earned. He was chosen by tribal leaders and relatives, based on the development of character beyond reproach. The Whipper Man functioned in the role of disciplinarian. He disciplined youngsters if they were disrespectful to elders. This discipline was administered in a very positive sense, and was understood by young and old. The whip he used hung over the door or on the wall, and was the omnipresent symbol reminding the children that "the Whip Man might be coming."

In July, 1973, an Indian interpreter was asked to explain the development of the tribal childcare program to a general council meeting of a plateau tribe from central Oregon. The interpreter explained that the new childcare program was like going back to the old way, when there was a Whipper Man not connected with the immediate family, who came and discussed and disciplined the children. The childcare center was seen as taking up the Whipper Man's role in the village as a non-family participant in child rearing practices with community sanction. The general council, an open community meeting, voted overwhelmingly to approve the budget request for the childcare program.

In this example, a new mental health program, developed within and

supported by the Indian community, was seen as being compatible with ancient Indian tradition and part of a culture in which extended family contacts and community responsibilities for childrearing were as important as the immediate responsibilities of the nuclear family.

### Tribal Priorities for Child Care

Beginning in 1969, consultants with the new Mental Health Program of the Portland Area Indian Health Service visited tribal councils in the Pacific Northwest (Washington, Oregon and Idaho), seeking their viewpoint on mental health priorities by each governing body. The statement by tribal councils was clear and enlightening in reference to their concern for Indian youth. It might be paraphrased as follows: "Our most valuable possession is our children. Many are being lost through the process of foster home placement outside of their own Indian community. The children leave home; the family breaks down; and it is impossible to reverse the process or repair the damage." Without exception, concern about the process of foster home placement was a high priority of Northwest tribal leaders for their new mental health program. Indian leaders stressed the fact that significant efforts in prevention must begin with their young people and requested assistance in changing the process that contributed to family breakdown, the loss of youth, and the loss of Indian identity by those raised in non-Indian communities.

### Foster Home Placement of Indian Children

In a report of the Association on American Indian Affairs, Byler had commented extensively on the legal process which he entitles "the destruction of Indian families." "A survey of states with large Indian populations by the

Association on American Indian Affairs, indicates that 25-35% of all Indian children are removed from their families and placed in foster homes, adoptive homes, or institutions - and over recent years the problem has been getting worse." "Recognizing that in some instances it is necessary to remove children from their homes, [tribal leaders] argue that there are Indian families within the community that could provide excellent care." (1, p 1 & 2) In several Pacific Northwest Indian communities, 15-25% of the population under 18 years of age are not living with their natural parents. On some reservations one child out of 10 has been placed off reservation in a non-Indian foster home.

#### Tribal Involvement and Behavior Change

On one Northwest reservation from the Plateau culture group of central Washington, the involvement by tribal government demonstrated the potential for behavioral change in a situation of child neglect. On this particular reservation, the tribal council and the state children's service division had been concerned over the issue of child neglect and abandonment during the annual rodeo round-up and Indian festival. In past years the number of Indian children who required temporary foster home placement during that event had varied between ten and 20. Because of the subsequent breakdown in the Indian family, it was necessary that several of those children be assigned to permanent placement in a non-Indian foster home. With this background, the local mental health staff met with the tribal council, social service personnel of the Bureau of Indian Affairs and the state agency. An emergency childcare center was planned for the round-up. The center was staffed by the inter-agency group and community volunteers. All Indian families were

informed by the tribal council that this service was available, but the community expectation was that parents would first assume responsibility for their own families. This service was to be used only in situations of extreme need. The events that followed were dramatic. For the first time in many years, no children were placed by the state agency. Of greater importance was the fact that there were no admissions to the emergency child care center. Because of the clear statement of community expectations and a strong endorsement by the tribal council, parental behavior was dramatically altered.

#### A Tribal Youth Home

A second tribal group from the plateau culture of central Oregon has demonstrated the impact of community sponsorship on the effectiveness of an Indian childcare program. After two years of intensive planning, the tribe opened a children's group home. The development of this service had taken place under the sponsorship of the tribal council with mental health consultation from the Indian Health Service and support from other agencies. A child neglect committee of community participants had been functioning for several years with official tribal council endorsement and had established the precedent for community initiative in making decisions for the placement of Indian children. At the time the group home opened, there were 219 Indian children under the age of 18 who were not living with their natural parents. These children were part of the total youth population of approximately 800 under 18 years of age. The children in placement represented 28% of the total youth population. Of this number,

74 (34%) were in foster care placement with the state children's services agency, 47 (21%) were in boarding schools, and the remainder in tribal foster homes or other off-reservation homes. Local homes were not licensed and received few if any services. Children were removed from their family homes because of complaints of neglect or abandonment. In 1971 and 1972 the number of new Indian children placed in foster homes was 40 and 30 respectively. In 95% of cases, this was directly related to alcohol misuse of their parents. Child abuse or battered child syndrome was virtually unknown.

The tribal child care services were developed to include intensive outreach family counseling in addition to the group home for Indian youth. The group home was designed to provide short-term shelter care, long-term placement, counseling and minor medical treatment for Indian children ranging from one to 18 years. Staff for the group home and the outreach family counseling program were 90% Indian, most of whom came from the local community. In the first twelve months of operation, 246 Indian children from 135 separate families were placed in the facility. This represented 20% of all reservation families. The children ranged in age from two and one-half weeks to 19 years. Problems related to excessive drinking by the parents accounted for greater than 90% of the placements. Child behavior difficulties such as juvenile delinquency and runaway reactions, or significant medical problems accounted for the remainder of the placements. During the first seven months of operation, four children were placed in the center for care of a major medical problem. One child was placed for a cleft palate and

three for "failure to thrive." All of these children improved and were subsequently returned to their families.

In the five preceding years, a large number of Indian children under 18 had been detained in the tribal jail for acts of delinquency. These children numbered 77 in 1967, 98 in 1968, 121 in 1969, 118 in 1970 and 120 in 1971. In one case the length of detention was 32 days. At least 25% of juvenile arrests have been for a drinking violation. For many others, delinquent behavior was associated with drinking problems of one or both parents. Although referrals to jail have continued since the opening of the tribal child care center, the average length of stay has been reduced to one day and many children are referred immediately from the jail to the center, while others bypass the jail entirely. On only one occasion has it been necessary for the center's staff to refer an adolescent back to jail. This was because of an uncontrollable runaway.

Through clinical experience on this and other Indian reservations, the authors have encountered a sense of hopelessness and despair in working with Indian parents about problems of alcohol misuse and child neglect. Once placement of the children has been initiated, Indian parents often withdraw, become depressed and begin or resume intensive drinking. This process is often interpreted by the non-Indian outsider as further lack of concern for Indian children and as additional evidence of instability.

The development of a community recourse, where children can be adequately cared for in close proximity to their parents, is an essential step

in program development. This must be combined with an outreach program by Indian counselors to keep parents involved. The decision to place Indian children is now made by the Indian community with due process through the tribal courts. If placement is necessary, the impact is minimized by a clearly stated policy of returning children to their own families within a short period of time. Although some children may need off-reservation placements in individualized treatment plans, the initial success of the program is highlighted by a dramatic reduction of off-reservation referrals. Since the opening of the children's group home in January of 1973, only one Indian child has been placed off reservation in a non-Indian foster home. Many additional Indian families have received outreach services before placement was indicated. Most children referred to the group home have been returned to their parents who are receiving out-patient follow-up, while some children have been placed in reservation-sponsored foster homes.

#### Discussion

The development of child care programs under tribal sponsorship is also beginning in other regions of the country. Plans are currently being made by the Wisseton-Wahpeton Sioux Tribe, the Rosebud Sioux Tribe, and the Oglala Sioux Tribe of South Dakota, and three affiliated tribes of the Fort Belnap Reservation in North Dakota. (1) These tribes are developing comprehensive child-welfare programs and tribal ordinances that will increase community control over the placement of Indian children. At the same time, state agencies are being asked to

adapt state licensing standards to meet the expressed needs of Indian communities in order that more American Indians can qualify as foster parents.

Since referral to an Indian boarding school is another method of responding to the pressure of Indian youth in crisis, it is no surprise that boarding school adjustment is significantly affected by alcohol abuse. Of the 47 students referred to boarding school from <sup>the</sup> Oregon tribe in 1972, 28 were enrolled because of excessive drinking problems by a parent. There were 12 dropouts in this group. Seven students dropped out or were dismissed because of their own alcohol involvement at school. Swanson et al (2) have described the alcohol abuse pattern in <sup>another</sup> tribal population of Indian children. They concluded that peer group pressure and a parental history of alcoholism were significant factors among Indian children with severe abuse patterns. Bergman and Goldstein (3) have described the development of a model dorm for Navaho boarding school students. The special dorm program emphasized an increased staff-student ratio and sensitivity to the interpersonal need of the Indian children. Their results clearly indicated that in areas such as intellectual, emotional, and physical development, the children of the model dorm were significantly superior to those of the control dorm.

Saslow and Harrover (4) have discussed identity problems of American Indian youth and concluded that effective educational programs must emphasize the development of adequate psycho-social adjustment. They describe the school dropout phenomenon for Indian youngsters between the fourth and seventh grades, when a decline in academic achievement sets in. Working on the Oglala Sioux

Reservation, Bryde (5) reported on personality differences between Indian and white students, as indicated by the Minnesota Multiphasic Personality Inventory. "Notable among the more meaningful variables [among the Indian students] were, 'feelings of rejection, depression, anxiety, and tendencies to withdrawal, plus social, self, and emotional alienation.'" These feelings which affect school adjustment will not be changed through better education programs unless the cycle which disrupts Indian families is stopped. Preventative mental health efforts must begin with the preschool or elementary age child. Family stability is the essential link in constructing a chain of preventive adjustments. The children's group home and the family outreach program under tribal sponsorship is one approach to begin this process within the cultural values and political sanctions of the Indian community.

## REFERENCES

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3. Bergman RL, Goldstein GS: The model dorm: changing Indian boarding schools. Presented at the annual meeting of the American Psychiatric Association, Honolulu, Hawaii, May 7-11, 1973
4. Saslow HL, Harrover MJ: Research on psychosocial adjustment of Indian youth. *Am J Psych* 125:224-231, 1968
5. Bryde JF: Indian Education and Mental Health, presented at the meeting of the Association on American Indian Affairs, New York, N Y , November 14-15, 1966

Senator ABOUREZK. We have one more witness for this morning's session, Mr. Mel Sampson, Northwest Affiliated Tribes for Washington State.

This afternoon we will resume testimony at about 2 o'clock, following Mr. Sampson's testimony, at that time we'll hear from Mr. Leon Cook, of Minneapolis; Mary Ann Lawrence, of Pine Ridge, S. Dak.; Drs. Goldstein and Bergman of the Indian Health Service at Gallup, N. Mex.; and Mr. Jere Brennan, the Superintendent of the Bureau of Indian Affairs, Fort Totten, N. Dak.

Mr. Sampson, would you introduce your associate?

Mr. SAMPSON. Yes.

**STATEMENT OF MEL SAMPSON, NORTHWEST AFFILIATED TRIBES,  
WASHINGTON STATE; ACCOMPANIED BY LOUIE CLOUD, VICE  
CHAIRMAN, YAKIMA TRIBAL COUNCIL**

Mr. SAMPSON. I have here with me, Louie Cloud, who is on the Yakima Tribal Council for 10 years and is presently the vice chairman of the Yakima Tribal Council and has had some close association with the effect that Public Law 280 has in reference to Indian children.

I will proceed with my statement.

Mr. Chairman and other members of the Indian Affairs Subcommittee, I am Mel Sampson, a Yakima tribal councilman from the Yakima Indian Nation. Please allow me to thank you for this opportunity to be here on behalf of my tribe and other Northwest Indians to testify on a matter that is of gross concern to me and my fellow tribal members and Indians of the Northwest.

In the past 3 years that I have been a Yakima Tribal Councilman I have been confronted with several instances concerning the foster care and adoption of our Indian children to non-Indian homes. The damaging effect this creates on our Indian children is beyond the scope of evaluation. The Indian child is on the receiving end of a total lack of understanding. They literally suffer when they discover that their physical appearance is not that of their adopted parents. This is extremely damaging to the Indian child. The wonderment and the search for true identity is crucial and probably, at times, never completed. This, as you well know, is definitely wrong. Although the original intent of the adoptive or foster parents may be meritorious, the true factual thrust of the procedure is wrong. It is just as wrong for me to go out into white status quo and pick up a white child, taking him back to my Indian village and telling my Indian brothers, this child is going to be an Indian. There isn't enough sun in the world to brown him, just as there isn't enough bleach in the world to make us white.

I don't believe it's necessary to issue accusations of fault since we're all aware of the cause. But, I do believe that these hearings are an indication that something must be done to correct these wrong doings. Needless to say I could recite or produce case after case of the effect that Public Law 280 and CFR 25, CFR 104.4 has on our Indian children, but I will make specific reference to a case later so the precise feeling will be related.

Strange as it may seem, the pink pill and abortions have created a great demand for children. Indian children are in great demand.

The standards that have been established by adoption agencies have created an additional burden, such as, they are white status quo oriented. In other words, unless your establishment is rated "A" you can forget about adopting children or qualifying as foster parents. As you well know, this automatically leaves the Indian out. In other words, money prevails. The cultural aspect is overshadowed by money and standards. It is our feeling, and history has proven this, that the cultural identity is of major importance to Indians. Public Law 280 is contrary to the best interests of Indians and the concept of self-determination. In our particular situation we have our own police force, jail, court system, and corrective facility and treatment center are under construction. The operation of these systems are funded by the tribe.

In this particular situation, we are primarily concerned about points six, adoption proceedings, and seven, dependent children of Public Law 280. If the sincere intent is for the best overall welfare of the Indian children, we feel that we possess the capabilities of carrying this responsibility out with total sincerity. Perhaps, to relate the true feelings of an Indian who was raised by non-Indian adopted parents would be fitting at this time. For the record, I would like to read a notarized statement by Don James Morrison, an Indian.

At the approximate age of 6 or 7 years, I noticed that my skin was brown and darker than my parents. I started asking questions of my father (referring to adoptive father) and he would tell me I was too young yet to understand. I asked my mother, referring to adoptive mother, and she wanted to know why I was asking. I told her that my skin was a brown, and darker than hers. She told me I was adopted and my natural parents were killed in a car accident.

My second grade teacher was the one that told me I was an Indian, around the age of 7 or 8. My adoptive parents told me when I was between the age of 9 and 10 that I was an Indian, not mentioning a tribe or where I was from.

In recalling my adoptive parents, who were of non-Indian background, some of the following incidents come to my mind of their treatment toward me during the early age, very small to 11 years of age.

I can recall at an early age that I was locked in my bedroom and the door locked, that the sky was blue and turning dark; that an old washing machine was in the closet, which to me was a monster of some kind. I started to really cry and my father came in and I ran to him, wanting to be picked up and he wouldn't, he started to leave and I followed, but he took me back into the room. If it was not for my mother I would probably have been left in there. I can remember at one time he dumped a barrel of around a 50-gallon drum, which contained some rain water and rocks that I had been putting in there, on top of my head because he got mad at me for putting rocks in it. Another time I have remembered and cannot forget is the time I climbed an old crabapple tree and he had me climb down and he beat me with three hoses, regular garden type, tied together. Another incident was when I used some oil that I shouldn't have on a chain and I was told to remove my belt and I guess I did not do this fast enough, so my father went and got a big one which had a buckle on it and he used this on me for a long time. I remember rolling on the ground trying to get away; and when he got through there was blood on my back. Another time he told me to do something and I did not get up right away and he picked me up off the chair and threw me against the wall, the house had a cement foundation, and I hit the cement foundation pushing my shoulder blade out of place a little bit, and it has remained that way since.

When I was told to do something by my father, I had to do it right now and be told only once or he would give it to me. At one time he slapped me across the face leaving a red mark where he had hit me. When I made a mistake he would let me know about it for weeks on end.

When I reached the age of 8 years I was started on doing manual labor by digging ditches, a bank on the place, digging up tree stumps, and cutting brush.

When I was a junior in high school I wanted to go to an Indian boarding school, and my father got real mad, I felt that I would have been better off there. I had a feeling of rejection from the kids at school and from my father.

I recall these incidents as part of those that were not so bad. There are a lot of abuses that I took mentally and physically which I just want to forget ever happened. It is of my opinion that he tried to break me down mentally and physically. He was forever putting me down in front of his friends and anybody that was around at the time. It was not until just before he died that he realized that he had treated me very badly. He had never wanted me from the very beginning.

There was no explanation of Indian language, culture, history, or religion after finding out that I was of Indian descent.

My adoptive mother, was like a real mother should be; she protected and guided me through my years and life. Her protection of me from my adoptive father was what kept me going.

It is of my opinion that it is too tough for an Indian child to live in a non-Indian home. After they find out they are an Indian, there should be an Indian around that they can talk to.

I believe that this is only one case. I'm sure that many other Indians have experienced many throughout Indian country.

I would like to shift my attention to another problem that is confronting us concerning adoptive and foster children.

Annually, adopted and foster children who are tribal members, receive income in the form of a dividend, lease, or settlements payments. Presently the Superintendent of the Bureau of Indian Affairs under 25 CFR 104.4 is responsible for the disbursements of individual Indian moneys, minor's account. This has created considerable concern of the Yakima Tribal Council. It has exposed several problem areas. It is the consensus of the Yakima Tribal Council that we are responsible for the minor enrolled members IIM accounts, who are adopted or under foster care. Initially, when adoptive parents adopt an Indian child, they stipulate that they are well able and anxious to care for, maintain, and educate the said minor and to treat her or him in all respects as if they were their lawful child. We maintain that the money should be kept in their account until they are the age of majority or until released by the tribe. The child should have the choice of determining what they want to do with their money when they reach the age of majority.

When adoptive parents become aware that the Indian child has money deposited in their IIM account, they start seeking a method to get it. As an example, let me share an incident with you relating to one of our tribal members who was adopted by non-Indian parents. She was adopted as an infant. Her father was white and her mother a tribal member. Through inheritance, from her grandmother on her mother's side, she receives a notable amount in lease income besides the regular tribal dividend and what settlement payments that have been disbursed. Her adopted parents took out a guardianship of her estate. The Bureau releases her money to the parents, or the estate, from which she paid \$60 a month for her maintenance, plus school, medical, and lawyer fees were also taken from her estate. This is really a sickening and saddening affair. These types of mistakes would not happen if the tribal council had total control of their minor adopted children's accounts, as it should be.

In closing my statement, I would like to read a statement prepared by Roger Jim, Sr., a Yakima tribal councilman and the president of the Northwest Affiliated Tribes.

Senator ABOUREZK. Mr. Sampson, we're running out of time, could we just submit that for the record and we'll be happy to accept it.

There is a reason. I have to go get a bite of lunch before I have another hearing at which I have to testify at 1 p.m. and then I come back here at 2 p.m., so I would appreciate it very much.

[The statement of Mr. Jim follows:]

STATEMENT OF ROGER R. JIM, SR., YAKIMA TRIBAL COUNCILMAN, PRESIDENT, AFFILIATED TRIBES OF NORTHWEST INDIANS

Gentlemen, It is with great regret that I have to write down the feelings I have over child welfare and not be able to tell it to you first hand.

The first encounter with a bad situation was in 1969 when a report came to me about an Indian child being displaced beyond the jurisdiction of the Yakima Tribe. The child was adopted and taken across the United States to Maine.

Another was taken to North Carolina and all the adopted parents had gone through court procedure to acquire the children. The problem arose because of the procedure used to displace Indian children from their homeland, culture, relatives and denied their family from acquiring them. The procedure was most generally supported by the BIA.

Although the law required the depredators to search out the nearest relatives before the children was adopted to non-Indians.

This was not done and in effect caused the displacement of children, denied close relatives and opportunity to claim and take care of their own.

The children were of Yakima descent and was entitled to all the Tribal dividends provided yearly—\$300.00 in two payments and some children born before August 1957, a lump sum payment of \$3,150.00 and only a few are still waiting for their 21st birthday.

The Yakima Nation concerned over the endless stream of requests for children monies from adoptive and foster parents decided to stop this deprecation of minor funds. There was a meeting held with BIA, Social Services at the Yakima Indian Agency and the rules of BIA seemed to perpetuate this bad situation.

In the past the tribe had passed a resolution allowing a per capita payment of \$150.00 to each enrolled member, and within this resolution an attempt to save the monies of children was done where the minors monies of broken families, adopted and foster children was put in the BIA Individual Indian Monies Account.

The above categories was decided upon by the superintendent of the agency or his designee to disperse at his or her discretion to the foster or adoptive parents or guardians under CFR 104.4—which allows and authorizes the superintendent too much power over the childrens monies. Causing many times the child to pay his guardians for foster care or adoption.

The Tribal Council HEW Committee felt that this was wrong because of the assumption of jurisdiction under P.L. 280 and adoption and foster care of juveniles is one of the eight points assumed by the State. The cost was also assumed and minor children do not have to pay their own way while growing in a foster home or in an adoptive home. The adoptive parents had to swear before court that they were able to take care of the children financially. Not the children having to pay their way through with their dividend payments.

The Indian children were sought after by non-Indians for their dividends and many times used for that reason only.

The Tribe passed a resolution to require that all monies of adoptive and foster children be put in their IIM accounts and be available only when the child becomes of age, 18 years; although, at age 14, the BIA recognizes them to be able to draw from their own accounts.

This move created quite a stir in BIA offices, clear up to Washington, D.C. There is correspondences and memorandums to this effect in Mr. Melvin Sampson's presentation.

It is felt in Indian country and the Yakima Nation that the BIA has assisted in this practice of displacing Indian children from their culture and their homeland and relatives. This must stop and the authority under CFR 104.4 should be that the superintendent of an Indian agency respect the wishes of an Indian Tribal Council Resolution, which is only in protection of their Indian children.

The Congress must recognize that a tribe acting for the benefit of their future people must be honored and supported. And efforts made in future laws that will affect the welfare of Indian children be in the best interest as expressed by Tribal

leaders. The special unique status of Indian children are that they are born with a heritage that they can be proud of and must know of it while they are growing and that growing must be in the Indian environment and culture, religion, life style must be evident and within their grasp.

There are many instances that can be related to you from the time of the removal act to this day in 1974, as to how Indian children and Indians have been mistreated because of misinterpretation of laws, denied of rights, P.L. 280 and CFR's.

Mr. Sampson, in his presentation will provide documentation on other cases that I have not covered.

I thank you members of Congress for becoming concerned over the welfare of Indian Children. I realize that children of all races can play together without prejudice and at certain ages, become what parents make them. It is sad to know that the trustee cannot listen to the formal request of an Indian Tribal Council Resolution. The Yakima Tribe urges Congress to assist for better child welfare.

Thank you.

Mr. SAMPSON. I do have some other additional documentation that I would like to submit for the record, and we would be happy to entertain any questions if you have any.

Senator ABOUREZK. I appreciate it, and those will be admitted for the record, those other statements.

I have no questions at this time. You've covered your area very thoroughly in the statement that you've presented. I appreciate it very much.

Mr. SAMPSON. Thank you.

Senator ABOUREZK. I thank you both for appearing.

[The information referred to follows:]

U.S. GOVERNMENT,  
April 3, 1974.

MEMORANDUM

To: Roger Jim, Chairman, HEW Committee.  
From: Superintendent.  
Subject: Information on foster and adoptive children.

In your memo to Mrs. Snider, Agency Social Worker, you requested the names of all Yakima foster and adoptive children and the names and addresses of both foster and adoptive parents.

The identity of both the natural and adoptive parents must remain confidential. Both sets of parents as well as the adoptive child are guaranteed that confidentiality by the courts which seals records of adoptive actions and normally does not make them available except through a court order. Consequently, we do not release such information except to the court or under its direction.

According to what information that was available to Social Services there are 88 children who were adopted.

Twenty-two children have Indian adoptive parents. Sixty-six children have non-Indian adoptive parents.

Eleven families adopted two or more children. The age range of the adopted children are as follows:

Twenty-six children are eighteen or older.

Forty-four children are under eighteen.

Eighteen children—unable to determine exact age.

The majority of the adopted children reside in the Pacific Northwest—Oregon and Washington in particular. The rest are scattered throughout the United States in such states as Mississippi, North Carolina and Nebraska.

There are a total of 81 children in foster care at the present time.

For the current list please refer to the memo from George Brock on the Report on Indian Children in Foster Care, March 27, 1974.

I am enclosing for your information a copy of the Report on Indian Children in Foster Care, which provides a rather detailed statistical analysis of Yakima foster child cases. I hope this provides the information you need.

\_\_\_\_\_  
Superintendent.

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., July 5, 1973.

Mr. ROGER R. JIM, Sr.,  
Chairman, Health, Welfare, Employment Committee, Yakima Indian Nation,  
Toppenish, Wash.

DEAR MR. JIM: Thank you for your May 31 letter concerning Individual Indian Money (IIM) accounts, and the disbursement of minors' funds from those accounts.

We have reviewed your letter very carefully, and have considered at length the concerns expressed therein. We have also reviewed Yakima Tribal Council Resolution T-48-73 together with copies of tribal and Bureau correspondence related to this matter.

Based upon the material referred to above, and also based upon a thorough review of 25 CFR 104.4 to which your letter refers, we find that the Yakima Agency Superintendent is acting properly in his capacity as the designated representative of the Secretary of the Interior with regard to disbursements of IIM minors' funds. Resolution T-48-73, while taken most seriously, is not legally binding upon the Yakima Agency Superintendent, and he must continue to exercise his delegated singular responsibility for disbursement of IIM minors' funds as prescribed by Federal regulations.

Please be assured that we have no desire to affront the Yakima Tribal Council. We share with you your concern about the possibility that minors' IIM funds may not always be used in the minors' best interests. Accordingly, we are suggesting to the Yakima Agency Superintendent that he review existing plans for disbursement of monies from the IIM accounts of minors who are in foster care and that he take such steps as may be necessary to insure that these plans and subsequent disbursement of monies are in fact in the best interests of the minors concerned. However, any action taken by him in this regard must necessarily be in accordance with his delegated sole responsibilities as indicated above.

In reviewing Tribal Resolution T-48-73 we note that paragraph 9 has the effect of making a distinction between the disbursement of minors' IIM funds to natural parents and to adoptive parents. As the legal relationship existing between an adopted child and his adoptive parents is the same as that between a child and his natural parents, we cannot suggest to the Yakima Agency Superintendent that a distinction be made between natural parents and adoptive parents in the disbursement of children's funds.

We will continue to exercise great care in discharging our responsibilities with regard to disbursement of minors' IIM funds, and we will value your continued interest and support in this regard.

Sincerely yours,

T. W. TAYLOR,  
(For the Assistant to the Secretary of the Interior).

YAKIMA INDIAN AGENCY,  
Toppenish, Wash., April 4, 1974.

This has reference to the funds which are held in the IIM Account at the Agency belonging to minors who are in foster care or have been adopted by Non-Indian families.

Some of the following are cases and incidents pertaining to facts which has involved some of our minor Indian children's accounts. I have a great feeling that none of these accounts should be released to the foster parents, who are already receiving assistance from Welfare for them. That the adoptive children were to become their own children, and in order to adopt the children that a thorough investigation is made to see if they can provide a home, family and income such as they already do for their own flesh and blood children. The only income for some is per capita only, however some do fall under inheritance which involves a little more income for the Indian children, all of which should be held in custodial accounts for them until they reach the age of majority, 18 or 21 which ever the case.

In the years of 1956 through 1959 some of these cases came to light before the Tribal Judge on abuse, treatment mentally or physically, and withdrawing of the children's monies from their accounts at the Agency.

There were cases of indecent liberties both upon our Indian boys and girls. One case I can recall upon two Indian boys who were in a Non-Indian foster

home of an elderly couple. They were about the age of 8 and 9 years old. Upon investigation they were removed immediately from the foster parents home. Prior to removal their per capita checks in part were being mailed to the foster parents, even though they were receiving Welfare assistance already on the two boys.

Another case involved a 15 year old Indian girl who was in a Non-Indian foster home. The foster father had taken liberties of this girl and had her scared to the point of not telling anybody for fear of what he would do. This was brought to the Judge's attention when it was discovered that the girl was pregnant. This has left a mark on this girl for life.

There are so many cases where removal from non-Indian foster homes were done quietly without any notification either from the welfare office or foster parents that that child was placed in another foster home. So funds were continuously mailed upon request to the foster parents who first had the children.

During the months of October, 1972 through May 31, 1973 I had the occasion to come into contact with young Indian people returning to the Reservation and coming to the Agency to try and locate some relatives amongst their own people.

One such case involved a 16 year old Indian boy who lived with his foster parents since he was a baby. He came into the Agency to see if he had any funds, or monies here, and try to find some relatives that he could possibly live with. Upon checking his account, the supervisor was informed that his account was closed, that all funds had been released to his foster parents in the amounts of \$50.00 to \$200.00. This young man was in sports and wanted some extra things he needed. It was a jolt to find that he had no monies in his account.

There was an Indian girl who was adopted by a Missionary family. When this girl became the age of 15, and a few problems of communication arose between child and adoptive parent (which happens among any parents and their natural children in their teens) that they felt they did not want to go through any more problems with the girl. She did not know any of her relatives or who her people were. The adoptive parents asked to be removed through court as her adoptive parents and she be returned to her own people. This young girl is having a very difficult time as to distinguishing herself between the Indian way of life to the White mans world.

We had an instance where a young man of 20, and a young woman of 18 years, who were brother and sister came to the Agency looking for their own people. They were adopted at an early age to a Non-Indian Family in the State of Oregon. The young man left home at the age of 16 and wandered from place to place. He left because his adoptive mother was an alcoholic, which became unbearable upon the death of the adoptive father. His two sisters were removed from the home and placed into foster homes. As soon as the oldest girl became of 18 years old she got married. The youngest was still in a foster home. Upon chance, the two oldest went home to see how their adoptive mother was getting along, nobody was home so they checked the mail and found a statement from IIM, Yakima Agency showing the amount of money they had. Not understanding it, they decided to make a trip over to the Agency and try to find out some information themselves. I happened to work with the young man and young woman, and was advised before hand that they were adopted and in no way was any of this information to be given to them. After interviewing the two, and they were advised that they had some funds in their account that they could get it if they wanted, a report was made to the Agency Social Worker. The HEW committee interviewed the two. Through a search in the records it was found that even though the adoptive mother no longer had the children that she was still drawing funds from their account.

Why are these funds being released to the foster and adoptive parents? Is it because they are Indian children and there is an Indian Agency, and they think all Indians receive per capita and money through the Agency that they take children to get at the money? There should be a follow up on all of our Indian children in foster or adoptive homes once a year, or a report should be sent in by a caseworker as to where the children are. Even every six (6) months wouldn't hurt.

Just what is the Agency Social Workers doing? Are they helping our people and minor children or not?

LILA G. WHALAWITSA,  
Probation/Parole Officer.

U.S. GOVERNMENT,  
August 2, 1973.

## MEMORANDUM

To: Tribal Health & Welfare Committee  
Attention: Roger Jim, chairman.  
From: Social Services Branch, Yakima Agency.  
Subject: Per capita holds for September 1973.

Social Services holds on the September per capita payments are as follows:

Financial supervision (various).....	285
Direct to vendor program.....	129
Adopted.....	60
Foster care.....	83
Noncompos mentis.....	18
Non-Yakima guardian.....	131
Nursing home.....	18
Total.....	724

More specific information will be furnished at your request.

JESSIE SNIDER,  
Social Worker.

U.S. GOVERNMENT,  
January 31, 1973.

## MEMORANDUM

To: Mr. Roger Jim, Melvin Sampson, Harris Teo, and Levi George, Tribal Welfare Committee.  
From: Social Services Branch, Yakima Agency.  
Subject: Social services holds for March 1973 per capita.

The reason for an number of "Holds" is as follows:

Financial supervision.....	373
Adoptions.....	58
Foster care.....	59
Noncompos mentis.....	18
Non-Yakima guardian.....	119
Nursing home care.....	22
Total.....	649

We use the term Financial Supervision to cover a broad variety of cases which present personal and technical difficulties in money management. Many in this group are children. This group includes such situations as moving about, unstable custody, mismanagement of funds by parents or custodians, and requests by individuals for personal reasons such as being in the Service. Some are required by Voluntary support agreements. 85 in this category are on the Direct to Vendor Program with the Department of Social & Health Services.

I believe the other categories are well understood. We will be glad to meet with the Health & Welfare Committee if this is desired.

JESSIE SNIDER,  
Social Worker.

## MEMORANDUM

MARCH 27, 1974.

To: Community Services Division 17-7, Gerald E. Thomas, Acting Director.  
From: George Brock, Regional Administrator, Region 2, L 39-5.  
Subject: Report on Indian children in foster care.

This is a follow-up to the Regional Administrators' August meeting with Don Milligan at which time we agreed to review all Indian children in foster care. We understood each Regional Administrator was to return to his respective region and have each Local Office identify the number of Indian children in

foster care by name, and name of the foster home in which the child was currently placed. This was accomplished in this region and forwarded to the State Office on October 15, 1973. Subsequent to this was your memorandum of 10-24-73 to all Regional Administrators entitled, "Guidelines for Review of Indian Children in Foster Care by all Regions." After receipt of these guidelines, and in the preparation for the review of children in foster care, a meeting was held on 10-4-73 with the staff from the Toppenish LO, the Yakima LO, and Roger Jim, of the Yakima Tribal Council. As a result of this meeting, those agencies representing Indians were contacted and asked to participate in the review.

After the contacts were made with the Bureau of Indian Affairs, the Indian Health Service and the Yakima Tribal Council, and discussions held with the workers from these agencies who would be part of the review committee, a confirming memorandum dated 12-18-73 was sent to the participants and their agencies, Roger Jim, and several others (see Attachment 1). The Indian Foster Care Review Committee members are as follows:

- Gary Mason, Chairman—Social Service Supervisor, Toppenish.
- Marge McAtee—Indian Social Worker, BIA.
- Bill Clark—Casework Supervisor, Toppenish.
- Alice Rondeau—Social Service Supervisor, Yakima.
- Delores Moore—Indian Community Worker, DSHS Toppenish.
- Maxine Robbins—Indian Social Worker, Indian Health Service.
- Walter Schnellman—Casework Supervisor, Yakima LO.

The committee met on several occasions in order to form a plan for the review and to develop a reading schedule which would be appropriate to this region. The committee had several schedules which had been used for studies of a similar nature. They took these schedules, along with the guidelines from Don Milligan's memoranda, and your memorandum of 10-24-73, and, after careful review of these guidelines, the committee put together the reading schedule that was used in this region for the review of children in foster care (see Attachment 2).

Delores Moore, Indian Community Worker from the Toppenish LO, maintained a close liaison with the Yakima Tribal Council. She shared with the Council all copies of the reviews, all materials that were developed for their possible input and comment, and reported the input received from the Tribal Council back to the committee at each of its meetings. This served to keep the Yakima Tribal Council fully informed as to the progress the review was taking as the committee developed its procedures, methods and techniques throughout the entire new process.

During the time that the reading schedule was being worked out, the list of cases to be reviewed was again gone over. The committee agreed they would use cases which were active as of January 31, 1974 for the case review. At that point in time, there were 81 cases found to be active in agency foster care and voluntary agency foster care, that fell within the guidelines set out in your memorandum of 10-24-73. All of the cases that were reviewed were from the Yakima and Toppenish Local Offices. The Ellensburg Local Office had no Indian children in foster care or private agency placement at the time set by the review. There were four cases listed by the Pasco Local Office for review. The committee chairman reviewed those cases and found them to be inappropriate for this phase of the case review of Indian children in foster care because the children were either in adoptive placement or living with relatives. Attached is a list of all the names of the children that were reviewed by the committee (see Attachment 3). Those cases which are crossed off the list were children who did not meet the guidelines for the review but were in relative home placements or did not meet other portions of the guidelines. Copies of almost every piece of correspondence, memoranda and reports concerning the review were shared with the Indian Desk. The Indian Desk, on occasion, shared information that it had received from Indian participants of the review. The concerns were cleared up with both the Indian representatives and the Indian Desk. Considerable cooperation among all the participants on the committee and with the Indian Desk helped make the review much more meaningful.

OVERVIEW

There were some basic concerns on the part of the committee members which have repeatedly emerged during this task process. One was the manner in which the study was defined. This caused the focus to be distorted as far as what represents services to Indian children and their families. For example, some members of the committee point out the emphasis is on children in care; however, large numbers of Indians receive services daily in their own homes; their children are

typically returned home; and, not infrequently, the families ask for and receive the services on their own initiative.

Another concern was the case record as the only source of information for the review. Problems arise due to lack of information in case records relevant to questions raised by the guidelines. Some types of information just are not asked for or provided for on form recording. Similarly, it is felt by some committee members that data collection on a racial basis has been discouraged in recent years which particularly affects the availability of some types of information wanted for the study.

The committee read the materials in the Local Offices that pertain to children in private agencies. Some members expressed concerns that attempts to require adequate information from voluntary agencies has met with frustrations. The committee recommends that those types of children's cases would be better reviewed and recommendations established by a committee which has jurisdiction over licensing those facilities—probably a State Office committee.

FINDINGS

I. Identifying Information

- Child's Age at Time of Study:
  - 39 children were 7 or under.
  - 12 children were between 8 and 12.
  - 30 children were 13 or over.

Slightly over half of the children in placement were girls (55.6%). Of the 81 children studied, 35 were enrolled in different tribes. Of significance here is the fact that there was no record of the enrollment of the child in 41 cases. This leads to the question were the resources for 41 children properly explored. In the five cases where the child was not enrolled, what was done to start the process. Of those children enrolled, little less than half were Yakima Indians (16 of 35).

II. There were 50 sets of parents for the 81 children studied.

Fathers:

Race:	
Indian.....	20
Other.....	10
Unknown.....	4
Not recorded.....	16
Whereabouts:	
Living.....	27
Deceased.....	6
Unknown.....	17

Mothers:

Race:	
Indian.....	38
Other.....	2
Unknown.....	4
Not recorded.....	6
Whereabouts:	
Living.....	31
Deceased.....	5
Unknown.....	14

Most of the parents are living and are of Indian descent.

III. Circumstances leading to the placement of the child in foster care, including source of referral, reason for referral, location of child at time of referral, the Indian resources explored at the time of referral, and service offered to the family at time of referral.

Source of referral:	
Parents and relatives.....	22
Juvenile court.....	37
Other.....	20
Not recorded.....	2
Reason for referral:	
Physical neglect and/or abuse.....	36
Abandonment.....	22
Illness of parents.....	8
Other.....	15
Not recorded.....	0

Location of child at time of placement:	
Parents.....	50
Relatives.....	20
Other.....	9
Not recorded.....	2
Indian services involved at time of referral:	
Indian health service.....	10
BIA.....	0
Tribal.....	5
More than one Indian Agency, including IHS, BIA, tribal court, tribal council, Other.....	23
Not recorded.....	43
Services offered to parents:	
Services offered.....	48
Not recorded.....	33

At the time of referral, all appropriate services were offered to most of the cases, but again there is the problem of those cases which the recording made no indication of services offered.

#### IV. Foster Home Placement History

Age at time of first placement:	
Under 1.....	23
1 to 4.....	38
5 to 10.....	14
Over 10.....	5
Not recorded.....	1
Number of foster homes child placed in:	
Placements:	
1.....	10
2.....	27
3.....	9
4.....	12
5 to 8.....	17
9 to 16.....	0
17.....	1
Unknown.....	5
Length of time child has been in current placement:	
Less than 3 months.....	15
3 to 5 months.....	10
6 to 12 months.....	7
1 to 2 years.....	13
2 to 3 years.....	10
More than 3 years.....	24
Not recorded.....	2
Were steps taken to find either a relative's home or Indian foster home:	
Relative:	
Yes.....	23
No.....	16
Not recorded.....	42
Indian foster home:	
Yes.....	13
No.....	22
Not recorded.....	46
Has child been placed in an Indian foster home during past 3 years:	
Yes.....	2
No.....	63
Currently placed.....	10
Not recorded.....	2
Other.....	4

#### V. Parental Involvement in Placement and Post-Placement Planning For Child

Parental involvement was limited in that parents were only involved in the placements of 23 of the 81 children in current placement. Of the 58 cases where

the parents were not involved, the following is a breakdown by reason for the lack of involvement:

Parent out of the area.....	5
Parental rights terminated.....	15
Whereabouts of parents unknown.....	14
Parents were not willing to be involved.....	10
Other.....	14

In all 14 cases where the whereabouts of the parents were unknown, an attempt was made to locate the parents and gain their involvement.

Significant parental contact was made in 50% of the cases by the caseworker. The contacts ranged from weekly to a minimum of quarterly contacts.

Significant contact with the child initiated by the parent is at best minimal. Regular contact maintained on a weekly to quarterly schedule was only recorded in 7 cases, with irregular contact in 16 more. No contact is recorded in 23 cases, and contacts were not recorded in 22 more cases.

#### Changes in legal status:

Yes.....	39
No.....	39
Not recorded.....	3
Service plan:	
Return home.....	12
Adoption.....	26
Long-term foster care.....	30
Other.....	10
Not recorded.....	3

Only 21 cases were staffed with Indian Agencies.

In the opinion of the case reviewers, 78 of the 81 cases were appropriately foster care placements, but in only 44 cases the reviewers felt the relevant sources for a supportive new service plan had been explored.

#### CONCLUSIONS

This study attempted to get at information that is not a requirement of the current form recording systems used in the Local Offices. As a result, there is a significant amount of information lacking. The summary of the findings indicate the areas for which insufficient information was gained from reading the records. In order to get the unrecorded information, personal contacts would be required with the parents of each child and another questionnaire completed. Without the unrecorded information this review is of limited research value. On the other hand, it did point out several potential problem areas which can and will be corrected at the local or regional level.

Three areas are very apparent in their need for some form of corrective action. One is the need for all workers to become better informed of the potential resources which are available in serving Indian children. Second is the need for coordination between agencies providing services to Indians. Another area is the apparent lack of cultural awareness by the agency's workers. Currently corrective action is being taken in this area through planning with the Yakima Tribal Council for Cultural Awareness Workshop to be held some time in the future. Along with this a regional workshop is planned for April to relate specifically to the service needs and the treatment of resources of the Yakima Indians. With further analysis of the review, other areas may become apparent and action will be taken accordingly as they appear.

#### RECOMMENDATIONS

(1) The committee recommends a major emphasis should be placed upon *prevention*. It was felt that attempts should be focused upon resolving the problems prior to juvenile court action as often as possible. Herein, the focus is upon the 72-hours after a child has been picked up by police and placed in a Receiving Home.

(2) It is recommended that the resources of DSHS and the Indian Community be used to locate parents and relatives and to outline a plan to overcome the problems that brought the child to the attention of the authorities.

(3) It is recommended that roles be clarified and guidelines be established that will point out:

- a. Who can be contacted as a resource;
- b. How the contacts should occur;
- c. Who and what system of coordination can be used.

(4) It is recommended that a coordinator/liaison would be very helpful between the Indian community and DSHS offices. This procedure and the coordinator could be made commonly known to all local offices. The procedures and Coordinator could enable appropriate referrals to contacts in DSHS and/or Tribal resources. It could be considered here that schools, health agencies and other outside sources may need this information during their planning. For example, contact from Edgecliff Hospital about a child might best be handled by the coordinator who could clarify the fact that the child is already being planned for by Indian Health Services or Bureau of Indian Affairs.

Senator ABOUREZK. The hearings will be resumed at 2 p.m. this afternoon.

[Whereupon, at 12:45 p.m., the subcommittee recessed, to reconvene at 2 p.m.]

AFTERNOON SESSION

Senator ABOUREZK. The hearings are once again in session.

The first set of witnesses for the afternoon session will be Dr. George Goldstein and Dr. Robert Bergman, both of the Indian Health Service in Gallup, N. Mex.

Dr. BERGMAN. I'm Robert Bergman. I'm chief of the mental health program of the Indian Health Service.

Senator ABOUREZK. Where are you located?

Dr. BERGMAN. My office is in Albuquerque and my job is Indian health services, generally.

Senator ABOUREZK. Is your responsibility areawide or is it nationwide?

Dr. BERGMAN. Nationwide.

Dr. GOLDSTEIN. Mr. George Goldstein. I'm the director of program development and evaluation for mental health programs, Indian health services, nationwide.

Senator ABOUREZK. We want to welcome you to the committee and thank you for coming up. Do you have prepared statements?

Dr. BERGMAN. Yes. We have one statement which I will read.

**STATEMENT OF DR. ROBERT BERGMAN; ACCOMPANIED BY DR. GEORGE GOLDSTEIN, INDIAN HEALTH SERVICE, GALLUP, N. MEX.**

The statement is a generalization based on experience. I have worked as a doctor in the Indian Health Service, as a psychiatrist, for 8 years and in Gallup for 3 years.

Separating Indian children from their parents and tribes has been one of the major aims of governmental Indian services for generations. The assumption is that children and particularly those in any kind of difficulty would be better off being raised by someone other than their own parents. The purpose of the first boarding school on the Navajo Reservation as stated in its charter in the 1890's was "to remove the Navajo child from the influence of his savage parents." Few governmental agencies who are supposed to provide care for Indian children are able to help Indian communities and families solve child welfare problems except by one or another means of placement. This procedure usually solves problems only in the sense of removing them

from the immediate scene while in the long run destroying families and communities. This process is unfortunately far advanced in some places. The human experiment of tampering with Indian children's welfare and education for over 100 years has been for the most part a failure. The number of children who are underachievers in both the Indian and Anglo world, the number of school dropouts, the increasing rate of juvenile drug and alcohol abuse will give testimony to this failure.

Thousands of Indian children are sent each year to boarding schools for a variety of reasons all of which basically have to do with the opinion that children cannot be brought up right at home. Many of the children sent to boarding schools are already in serious difficulties and the rest have the special needs of any children who have been separated from their families. The schools obviously are totally unprepared to meet the needs of either group. Thousands of Indian adolescents are shifted from school to school in a disastrous game of musical chairs as one school after another attaches yet another pejorative label and passes the student along. Today while there has been an effort to gain local support by installing parent advisory counsels, community-school liaisons, and school boards, these have served for a most part as advisory functions with no real authority. They are serving a system whose philosophy and rules were not made with their consultation and which were not established with sensitivity to their needs.

Foster care practices for Indian children has been damaging. Given the least excuse, substantiated or rumored, children are removed from their homes and placed, most often with an Anglo family. In many cases the product of this placement is an imitation Anglo never quite good enough to achieve in the white world and removed far enough so that a meaningful return to the Indian world is impossible. Some years ago, a young woman was treated soon after her arrival at age 16 back on the Navajo Reservation which she had left at the age of 6 months. The adoptive parents who had removed her from the reservation and her family in the first place had given up on her, and had bought her a one-way ticket home. It is not necessary to dwell on the confusion, shame and personal fragmentation suffered by this patient who represents a severe but not an atypical case of the harm done by the promiscuous off-reservation foster placement policies which have been pursued by the BIA and other agencies. In one small Indian community where we have a mental health clinic approximately one-quarter of the children are in foster placement of one kind or another, not including those in boarding schools.

Tragically, it has become accepted not only by the welfare workers but by the parents in general that the best thing to do for any troublesome child is to send him away to a boarding school or a foster home in the first instance of trouble or to reform school, or the State hospital after there are repeated offenses. Once the child's home and family are determined unfit, the placement usually comes under the jurisdiction of the State and any potential foster home must be licensed in accord with State regulations. The home of a family member or relative must conform to these standards. The assumption is that the personal development and growth opportunity take place within the physical space of the home, and these increase the probability of the

child becoming a meaningful adult. While this assumption is true in a sense, the values are well rooted within the Anglo culture. With most Indian families the growth potential is outside the home as well, the desert, the mountains, the forests and the village and community. Love and caring don't seem to be relevant in the determination of foster homes.

In our practice where we see many families whose children were or about to be taken from the home, it is our opinion that they most often would be better if left with the parent or close relative. Therapy or counseling could be provided to these families. For some unexplained reason, current laws in many States provide a relative with less foster care subsistence than a stranger.

It is not entirely too late. Good schools such as the community controlled ones at Rough Rock and Rock Point on the Navajo Reservation can be developed. The children of the Rough Rock community are able to stay home through high school nowadays in spite of that community's isolation.

The model dormitory program at the Toyei school demonstrated that with sufficient energy, staff and money, a boarding school can be run well, so that it is a benefit to the children rather than a menace, and the tribes can develop their own child welfare programs which keep children at home and restore family unity, harmony and cohesion. The problem with these special projects and demonstrations is that they are special and they are isolated and most often they are funded by agencies other than those directly responsible for administering the education and welfare programs for the Indian population.

In a way, these programs are self-destructive while they exist they allow the rest of the system to remain ossified, comfortable in the knowledge that someone, somewhere is doing something. If we're finally going to get out of the business of legislating morals for Indian people we have to assume that native Americans know best what is right for their own children. The Federal as well as State governments must allow tribes, in their own counsel, to develop their own licensing standards for foster care placement as well as their own curriculum and policy for schools. We should provide consultation at their request and within their guidelines.

Senator ABOUREZK. Thank you very much.

You are both standing on that one statement and prepared to answer now?

Dr. BERGMAN. Yes.

Senator ABOUREZK. Could one of you elaborate briefly on the model dorms program that you referred to?

Dr. GOLDSTEIN. The model dormitory program is located at the Toyei school about 20 miles from Ganado, Ariz. It's about right in the middle of the Navajo Reservation. The program was for 3 years and the premise was fairly simple, that was, to increase the number of parents service to the number of children.

Traditionally, in boarding schools the ratio of parents to children is approximately 200 to 1. In our model dorm we end up with about 12 to 1.

There's also fairly extensive training of the dorm aids in child growth and development, child psychology and at the same time there were opportunities at the dorm for children to be with parents,

older people, at the suggestion of some of the teachers and the school board members, who built programs for storytelling on the grounds.

At the same time, we were evaluating control schools, which were similar, in terms of the effect of the model dorm. During the evaluation we found that in all levels of development, intellectual, emotional, as well as even physical, the model dorm children did far better than those in the control school, and on no measure did they do worse.

Unfortunately, the model dorm is no longer running because of problems with funding, however, we believe that the results are conclusive and that these are experiences to children that are of benefit to them.

Dr. BERGMAN. I'd like to add one detail to that, and that is the great bulk of the staff for that dormitory was Navajo, from the community and without special or professional training.

Too often, I think the assumption that in order to do something about situations like this that are common in boarding school, it's necessary to get outsiders with fancy degrees. Our experience doesn't support that.

I think the fact that the people were hired for this were Navajo and Navajo speaking, knew the children and knew their families, are very familiar with what they had gone through before and what they would do in the rest of their life, and it was much more important than if these people were professionals by training.

Senator ABOUREZK. Given a long period of time that the Navajo children have been sent away to boarding schools, I'm curious to know what effect, if any, this had had on parental responsibility?

Dr. BERGMAN. I think it's undermined the Navajo parents' sense of himself as a parent and it's quite common that parents will go, Navajo parents will go to welfare offices and ask that the children be placed in boarding schools if there's any difficulty with them because this is a commonly accepted custom.

Child rearing practices have suffered a great deal as well as the confidence that people feel because they, themselves were raised in bleak institutions and were away from Navajo traditions in which they should have been taking care of younger brothers and sisters, and become part of a chain of family responsibility.

It has been effected by families in boarding schools.

Senator ABOUREZK. I know it used to be the practice in Indian boarding schools to prevent or prohibit children, Indian children, who were attending the schools from speaking their native language, from doing beadwork or anything with their hands, as they had seen their parents do, or to practice in any of the religions, the Indian religions, or other aspects of the culture that they might practice.

Is that still a case in boarding schools?

Dr. BERGMAN. Fortunately, it isn't, generally.

The spirit of that sort of thing may linger on but the letter of the law, at least, has changed and the children in Navajo schools obviously learn Navajo, or are encouraged to engage in some Indian practices.

Senator ABOUREZK. Are you familiar with Dr. John Bride who is now at the University of South Dakota?

Dr. BERGMAN. Yes.

Senator ABOUREZK. I believe that when he did his doctoral thesis, he did a study on why Indian children sort of dropped out, roughly, at the sixth grade level. If I'm not mistaken, his determination was,

at the time, that it was primarily because the method of teaching in boarding schools, or in any other schools for that matter whether it was an Indian teacher or an Anglo teacher, generally white, middle class values were taught as something good and Indian values were taught as something bad alongside the white middle class values. Therefore, ordinarily bright and outgoing children eventually developed conflicts because when he returned home at night, or returned home at any point, he would get an opposite point of view from his parents and his grandparents.

Do you agree, or would you comment on that theory?

Dr. GOLDSTEIN. I believe that Indian dropout rates, specifically from high school levels, even the runaway rates among young children, we're talking about 5- and 6-year-old children, can really be characterized as a survival test, that is in a psychological sense.

Senator ABOUREZK. Would you elaborate on that a little bit?

Dr. GOLDSTEIN. Yes.

In the past a child would go to a boarding school about 5 or 6 years old. His level of language, even in Navajo, would be rough at that time because he wasn't allowed to speak that language when he got to school.

So, in those languages, the child had a very difficult time expressing himself. He wasn't allowed to speak the language he was learning and developed up to 5 years and had to start a brand new language after that time, coming from a home where no English was spoken, or wasn't often and also being punished for things that were praised at home, responsibilities that were praised at home.

Senator ABOUREZK. Such as?

Dr. GOLDSTEIN. Necessary things, such as going outside, just taking a walk, as the child would do in herding sheep, something like that.

Dr. BERGMAN. It's a complete pull to pull contrast between Navajo notions of independence and responsibility and what happens in a boarding school. Navajo notions of what a 6-year-old child is capable of are far greater than is common the majority of Americans.

The boarding schools, if anything, are oppressive. Those in schools assume that children are less competent that what we assume our children to be.

Dr. GOLDSTEIN. The Navajo regard their children, and they treat their children as adults.

Dr. BERGMAN. There is a lot of confusion that comes from this.

I treated a man several years ago, a Navajo man, he was in his forties at that time, who told me about his bad experiences with this school, that his father, who is a well known minister, a Navajo minister, sent him to school telling him that he wanted him to learn in schools and the times were changing and that it would be very well for him to do well in school. Telling him that he should believe what the teacher said, that the teachers were good people and they had his best interest at heart. The first thing that the teacher told him when he got to school was that his father was an agent of the devil. That's an old fashioned example, but I have witnessed ones that are almost the same.

When we were beginning the project, one of the officials of the school launched into a major attack on the Native American Church. In the present group of Navajo health parents and Navajo kids, everyone

was a member of the Native American Church and of course the teacher was unaware of that and that's approximately about the same thing.

Senator ABOUREZK. Has anybody from the BIA education division, ever asked your advice, perhaps on how curricula ought to be established to avoid the sort of things that you are talking about, in boarding schools and other schools that BIA has some control over?

Dr. BERGMAN. Yes.

In the Toyei project, which is a joint project of ours and the BIA, in all fairness.

Senator ABOUREZK. I mean so far as general education around the country?

Dr. BERGMAN. No.

Senator ABOUREZK. Have you ever tried to offer it to them?

Dr. BERGMAN. Yes.

Senator ABOUREZK. I guess in summary, would you generally ascribe to recommendations provided by the other experts who testified today that the tribe should have control over adoption and foster parents and education programs as far as children are concerned?

Dr. BERGMAN. Absolutely.

Dr. GOLDSTEIN. No question.

Senator ABOUREZK. One other question, the staff has just commented upon, are the rights of Indian children protected in the boarding schools they've attended?

Dr. BERGMAN. I don't think so. By and large, the boarding schools are not of a piece, but I think in the usual situation, no.

Dr. GOLDSTEIN. I would agree. I was just trying to think of rights that children have when they get there, and I can't think of any.

Senator ABOUREZK. Of course, as a comment, I think that's a mistake and it's carried on in Anglo schools as well. I know my children have suffered some pretty disastrous learning experiences in the regular schools that they have attended that have made them more than not interested in learning. Even though they start out pretty enthusiastic about it, they soon loose interest in it because of the techniques used in schools both public and private throughout the country.

In the Indian boarding schools, do you know whether or not the children are required to attend Christian church services?

Dr. BERGMAN. Almost always.

Senator ABOUREZK. Even though they might have some other religion?

Dr. BERGMAN. That's right. The question is usually asked if a child, or when the children come to school, what is their religious affiliation and most places there are three possibilities, Protestant, Catholic, and Mormon, and no other possibilities are listed.

Dr. GOLDSTEIN. I think that was my first experience at Toyei. Dr. Bergman asked me to come out and it was a Thursday, it was mission day at that time, and I witnessed someone asking a young child, well you are such and such a religion aren't you, your friend Jim is.

Senator ABOUREZK. In other words, for a child it's almost coercion it seems like.

Dr. BERGMAN. There's nothing else that a child is allowed to do at that period of the day or in the week and in most boarding schools, so he's got to be in one of the other kinds of religious instruction.

Senator ABOUREZK. I used to read the cases on required school prayers, in the court handdown, and everybody agreed at that time, that even a suggestion to a child that he was doing something outside of his normal activities than the other children, it is more like coercion. If the entire class was required to pray at a certain hour, and if some of the children didn't want to pray, they were told to go outside. This effect on the small child was very bad. He felt like he was doing something wrong if he didn't stay in there.

Dr. BERGMAN. It's not so subtle in this instance.

Senator ABOUREZK. In the case of the Indian boarding school, I agree with you.

I want to express my gratitude and the gratitude of the committee to both of you for testifying here today, and we hope that it will be helpful to us.

The next witness is Mr. Jere Brennan, the Superintendent of the Fort Totten Agency, at Fort Totten, N. Dak.

Do you have a prepared statement?

**STATEMENT OF JERE BRENNAN, SUPERINTENDENT, BUREAU OF INDIAN AFFAIRS, FORT TOTTON AGENCY, FORT TOTTON, N. DAK.**

Mr. BRENNAN. Yes I do, and rather than present all of that prepared statement, I'd rather submit part of that. There are two issues that I would like to touch on from the prepared statement, just to illustrate specifically some of the problems that have been discussed this morning.

One, in particular is in relationship to the administration of programs and services we have for children, and this has to do with funds that are made available to the State for the purpose of providing assistance.

One of the things that I would like to say is that as far as funding for programs neither the Bureau of Indian Affairs, and these are strictly my views and don't necessarily reflect the policy of the Bureau in any way, but my observation about what I've seen in terms of my background and my experience for 12 years that I have been a professional social worker and most of that time I've worked for the Bureau of Indian Affairs.

Ten of those years have been spent strictly in child welfare. I asked that my services be as consultant in the area.

What I'm outlining are really my impressions and my views of what happened.

With the title 4A amendment of the Social Security Act implementing AFDC foster care, which was a way of channeling Federal funds into States providing more adequate ways to meet the needs of the children in those States if the States weren't able to generate enough money of their own to meet the need that was evident.

In providing this mechanism, this is for all children, all families in any given State, and States are instructed that these programs are to be implemented in all of the subdivisions of the State. However, when it comes to reservations, this doesn't necessarily apply, and a good illustration of that is what happened there in the State of North Dakota and it's been touched on somewhat this morning in relation to Mrs. Fournier and what transpired at Fort Totten in 1968 when the

amendments of the Social Security Act were passed and the FDC was implemented in foster care.

There were certain eligibility requirements that have to be met in order for children to be eligible for these services. First of all, there had to be a court order by a court of competent jurisdiction in removing the custody of the child. This is one issue.

Many of the tribes are concerned about the fact that what this means, or would mean to them is that the custody of these children would be lost and placed with State departments and public welfare. This is not necessarily so.

Indians, also in the guidelines in the implementation of this program, are instructed that this doesn't necessarily mean custody has to be lost, that States can accept by a court order mere responsibility of placement, and planning and supervision of the child without having custody and this would be enough for them to make payment.

Now, this would make possible their jointly working with Indian tribes who might develop placement programs or be concerned about the placement of their children or have a mechanism like it, so the committee would have an order to operate, to work on this kind of business on or off the reservation, whichever the choice may be.

This, plus some other things, for example, also in order for the home licensing requirement, and this arose in North Dakota. In 1970 the attorney general in North Dakota issued an opinion which states that the State of North Dakota had no "jurisdiction or ability to license foster homes on the reservation nor to implement the protective services on behalf of Indian children since they had no jurisdiction to or authority to act."

So, in effect, what this meant was North Dakota placed themselves out of conformity with the Social Security Act, and then began a whole 2 years, and in fact it's still continuing, a process trying to administratively resolve this situation in North Dakota.

It began with a series of meetings from the regional people of HEW, the Bureau of Indian Affairs, the tribal peoples in the State of North Dakota, a whole series of meetings, and it finally got to the point with North Dakota where there was the threat of withdrawal of Federal funds at that point. They did agree to make payment to Indian foster families on the reservation even though the State would not license those homes. They did this using another mechanism in the regulations which said that rather than licensing these homes, they could be approved foster homes. Now what they will say, as far as approved foster homes, is that they have to meet the same standards as the licensed home, but it's another way of getting around a regulation which would cover homes such as those that are sponsored by church-related work, or church organizations where they need not be licensed. In fact, they're exempt from licensing, but they have to meet this approved status.

The State of North Dakota, on this point of view, saw the Bureau of Indian Affairs as being the authority on the reservation, who had the authority to license or approve these foster homes. We have no such authority.

We have continued to try and impress upon the State that they should deal directly with the tribes in the State of North Dakota in the development of these standards for approval and that they should

work through the tribes to extending them, for example, the means or the list of foster families on the reservation who are asking to be approved for the payments of foster care.

To date, although there have been some improvements in relationships in the State of North Dakota, this program has still not been fully implemented, and to my knowledge, the people within the State department, public welfare in North Dakota has really made no effort at all to get together to meet with the tribes in North Dakota to begin to really get their input into the administration of this program.

The second thing, it illustrates what I had in my prepared statement is that when policies and programs are developed and implemented that we think are going to be of benefit to all people, it seems to have a particularly negative impact on Indian people. This AFDC foster care program is a good illustration. There is nothing in the implementation of this program that reflected, in any way, how this program was going to effect Indian families or Indian children on the reservation, until this crisis came up in North Dakota which began to stir up all these issues.

It's the same thing with the implementation of food stamps, although that's indirectly related to child welfare and what we're concerned about here today. This is another illustration of a program that was trying to meet the needs of all people but failed to take into account what ramifications that program had on Indian people on reservations, and things that would make it possible for that program to be implemented to the fullest extent to really meet the needs of the Indian people.

The same thing applies to supplemental security income. That's another failure, or rapidly becoming a failure as far as improving the lifestyle and the situation of Indian people, who in some ways look forward to that being something that would be helpful to them rather than the administration of the old categorical systems program.

Those are two of the vital areas that I am concerned about as far as my presentation in my prepared statement.

Senator ABOUREZK. Do you have any suggestions on ways that we can assure that Indian children do, in fact, share in the benefits of the general child welfare program?

Mr. BRENNAN. As I indicated in my prepared statement, if States are willing, such as North Dakota, to implement this program. The suggestion has been made several times today that somehow it might be developed so there is direct funding to Indian tribes to implement these programs in behalf of their own people.

I want to mention, too, that a ramification of this North Dakota attorney general is being felt in other areas. The Devils Lake Sioux Tribe recently submitted a proposal for funding through the LEAA program in North Dakota.

It was reviewed by the North Dakota Combined Law Enforcement Council and they were highly enthusiastic about the program.

Really, what it amounted to was funding for juvenile counselors to work with the tribal court and with children that are endangered, at risk, who attend schools, or who may come before the tribal courts. They highly approved of that. They said, yes, we would approve this project for funding.

There was a subsequent meeting held in Florida, at which time the attorney general, who was the chairman of this North Dakota

Combined Law Enforcement Council, indicated again that the project could be approved; however, there would be no money for this program since the money from LEAA comes through the State, the State has no jurisdiction to go forward on the North Dakota reservation, so they can't give them any money, because they can't enforce any kind of conditions that provide the funds when it came to accountability or the misuse of funds, which to me is a rather negative kind of approach to take in terms of funding or accountability programs.

This is being felt continuously in the State of North Dakota.

Senator ABOUREZK. Do you believe that the social security laws are broad enough to permit direct funding to the tribes or do you think they ought to change?

Mr. BRENNAN. I think there are presently ways that that can be implemented. Unfortunately, I happen to think that North Dakota is taking the negative approach to that. They have been in some of these meetings that we have attended with the regional people from HEW. They would point out very clearly that there's a way that they could purchase service from the tribes or develop the mechanism where without changing the law they could implement that program.

I'm only sorry, where North Dakota has within this whole crisis in that State to provide the opportunity for leadership for other States with significant Indian population, and how to really implement a program like this with a full participation of the Indian people.

They seem to take a negative kind of approach where we assume what they want is for this to go into the courts and that ought to be settled, and, perhaps, that's the legitimate place for it. Although, in my personal view, that is not the place to settle it. It can be done another way and I think it would be of much more benefit to everybody concerned, the State and the Indian people in the State of North Dakota.

In South Dakota, with the implementation of APC foster care, there was another issue. They had no question about implementing the program, their concern happens to be with the tribal courts.

This is what I want to touch on a little bit. Comments were made today by the people that were testifying, there didn't seem to be enough clarification of the fact that when they talked about courts, many times, at least in the States of North and South Dakota, when there are children removed from their family, this isn't always done by outside courts, State courts within the State of South Dakota; this is done by tribal courts and tribal court order.

And, the people, who are then instructed to carry out placement of these children, are following the tribal court order. And, with the resolutions that have been passed in the past prohibiting the removal and placement of Indian children off the reservation.

Senator ABOUREZK. The tribal courts in your experience, like outside courts, follow the advice of the welfare worker?

Mr. BRENNAN. I would say yes. That is generally of vital concern, because either they lack the knowledge, in some instances, or because they don't have the resources and they don't have the command of the resources necessary, that I think that tribal courts ought to have, because that is an awesome responsibility, to act as a juvenile court

with the very limited resources that a tribal court has to provide services for the children.

The judge has to be dependent, I think, on those who present themselves to the court offering recommendation to the court as to what they think, as has been said today, is in the best interest of the child.

Senator ABOUREZK. Does the social worker in those cases also follow the guidelines of the Bureau of Indian Affairs?

Mr. BRENNAN. In what respect?

Senator ABOUREZK. Where the child should be placed and whether or not?

Mr. BRENNAN. As much as possible.

Senator ABOUREZK. Guidelines, as far as removal of the child from the home and placement in a home?

Mr. BRENNAN. Here, I suppose it gets into a matter of policy but I'll take a shot at that anyway.

In our manual it clearly spells out that as far as the Bureau of Indian Affairs is concerned they will always follow the rulings of the tribal court in the terms of placement. And, if the tribe has passed a resolution and said that this child should be placed within the confines of a reservation, then they try to do their very best to find a home on the reservation.

Senator ABOUREZK. In other words, BIA doesn't make outside policy, it says that it shall follow the tribal decision?

Mr. BRENNAN. Right.

Senator ABOUREZK. Is that true in practice as well as law?

Mr. BRENNAN. As much as possible, I know some instances where the tribe has passed that resolution and where the workers have gone to the tribes and to the tribal court and said we simply can't find a home and ask for their suggestions. And, in a couple of instances have with agreement of the tribes and the tribal court, placed children off the reservation.

I think an issue and a distinction there in terms of control and being able to feel that they have really full participation in this, sometimes it is a matter of the child being placed off the reservation, is that somehow the tribe and the tribal court, the authority of that court is recognized. The dignity of that court is supported by those people off the reservation so that if the child was placed off the reservation, the tribal court would maintain custody. That child would be returned by the social agency that makes the placement if they place the child off the reservation, at anytime that the court requests it.

Senator ABOUREZK. Mr. Brennan, I want to thank you very much. It has been very good testimony and we're very grateful that you came to testify.

Mr. BRENNAN. I thank you Senator.

I would just like to make a couple of other comments about things that we're raising today.

Some of the things that have been proposed by AIA in their legislative proposals, for example the Bureau of Indian Affairs being able to, in effect, subsidize adoptions.

To my knowledge, and here again it's another thing that has to do with policy, but in the area this has been developed and is in the process of being developed over the last year, where, in effect, what we're trying to do is to go back to many of these children who have

had long term foster care with Indian families on reservations, where these children become a part of that family, to discuss with these families whether or not they would like to legally adopt that child.

In some ways, as far as Indian families are concerned, that really is immaterial, but by terms of the legal protections of the child that they don't now have because of their indeterminate status and foster care, adoption through the tribal court would provide this kind of legal protection.

What we are in the process of developing, or is being developed, I should say, and I'm no longer a part of that, is to talk to these families and see if they would like to go through the tribal court to adopt these children and then to continue the foster care payments. So, in effect, this would be internal subsidized adoption program. That is something that is being done now.

I think there are some very significant things happening, in as far as Indian involvement in child placement and foster care, and adoption and I've seen nothing but good coming out of them.

You'll hear tomorrow from some representatives of the Wisconsin foster care adoption program, where they did work with the State and, in effect, are using State standards as far as the placement of children is concerned. I'm looking forward to seeing how that works out.

I just wanted to say, too, that in terms of standards, there is also some suggestion that maybe these ought to be specifically written to apply to Indian people on the reservation. That is being done, or at least there is a proposal that has been submitted, and probably will be again.

To me, in the States of South Dakota and North Dakota particularly, their standards are not so stringent. What they say they are looking for, many times does not turn out unfortunately, is that they are looking for families that can provide the emotional warmth that will help this child grow and develop without some attention to the physical standards of the home.

I think this is getting more and more true. They are paying less and less attention to the physical standards as far as homes are concerned to the point where it may not be necessary to legislate that kind of policy, that that's really what there is resulting internally anyway.

Senator ABOUREZK. Again, we thank you for your expert testimony. [The prepared statement of Mr. Brennan follows:]

STATEMENT OF JERE BRENNAN, SUPERINTENDENT, BIA, FORT TOTTEN AGENCY

I would like to express my appreciation to the Chairman of the Sub-Committee for inviting me to testify at this hearing on the welfare of Indian children. It has become trite to say that these children are our hope for the future, but it is a fact. If Indian people are to survive and maintain their identity, it is to be done by these and the succeeding generations of Indian children yet unborn. The problems encountered by these children and their families as they attempt to grow and develop are the subject of this Sub-Committee hearing. My statement is being made as a result of my experience as a professional social worker with twelve years experience, ten of which were spent in the field of child welfare working with or in behalf of Indian families and children. I am not here to address the Sub-Committee as an employee of the Bureau of Indian Affairs.

Many of the problems of Indian families and children arise out of the social and economic system that has developed on many reservations. The statistics on unemployment, mortality rates, inadequate housing, education, and health care as they affect Indian people, are cited quite frequently so I need not quote them but all of these problems create the climate of helplessness and hopelessness that

lead to the disruption and destruction of Indian family life. Although they have only limited impact on the large scale problems just referred to, I respectfully submit the following comments.

1. If services to Indian families and children are ever to be truly effective, there must be a change in what appears to me to be a national philosophy and financial support. At the present time funding for public social agencies services are allocated to provide (pay for) care of the Indian child away from his own home, adoption, foster care, or institutional care. This is a priority that must change. Funds to these public agencies must be made available to them or to Indian tribal or urban groups to develop resources and services at the local level to meet the needs of Indian families and children. The Family Development Center established on the Devils Lake Sioux Reservation, the day care center recently established there, and the Family Enrichment Program on the Omaha Reservation are examples of the kinds of programs that need to be fostered and supported, as are the establishment of group care facilities such as those in operation on the Cheyenne River, Turtle Mountain, Lake Traverse, Fort Berthold, and Rosebud reservations. The Bureau of Indian Affairs has no funds under its present system to assist tribes in the establishment of such resources, apparently under the assumption that other governmental and philanthropic organizations have funds available to meet these needs. In my experience, this has not been the case.

Many times Indian tribes and organizations are the last to hear about funds available through these resources; and when they are aware of the resources, they find the funds are available for planning, study, or research but not for construction, staffing, or operation of locally-based treatment or care facilities which Indian people have decided long ago was a need on their reservation. Private social agencies that depend on donations or contributions from such community resources as United Way can develop innovative programs in reaching out to provide services to families or children in their own homes but for the most part such agencies have little relationship with reservation Indian people since they are located in the larger metropolitan areas and are geared to serve that population. Some attempts have been made to interest such agencies in providing consultation to tribes in the possible development of a reservation-based social service agency without success. The needs of urban Indian families and children have been overlooked, lost, or deliberately ignored by social agencies. I have heard and been told by Indian people of their experiences in going to a social agency in a city where the worker's solution to their problem was for them to go back to the reservation since the services they required could be provided there. Sometimes these workers do provide assistance other than a referral back to the reservation. They offer, or will buy a person a bus ticket to "help" them get back home.

State agencies were mandated by the Social Security Act to provide certain services to *all* eligible recipients. Such services as day care, homemakers, and other services that are designed to keep families together are not adequately funded or staffed. Again, the majority of funds available are to provide for the care of children away from their own homes. This is not necessarily the wish of a particular state agency but is tied to the purpose of the funds that are appropriated by Congress. We must reorder our priorities and put our money where our mouth is if we are truly committed to the preservation of the family and in this case, the Indian family. We must make it possible for Indian tribes to develop programs that they feel will preserve and support family stability on their reservations, and if it is not possible for Indian children to remain with their families we must support the development of local resources to provide alternative care for children to the maximum.

2. We could all do more to serve Indian families and children with existing resources and services if there were more coordination between agencies and programs. There are certainly gaps in services but on any reservation, there are services that may not be known to any other agency, or the purpose of the program may not be clearly understood. I have felt for some time that if the purpose and services of many of the programs existing on a reservation were well known, and there were sincere attempts between and among these agencies to work together toward their common goal "to help people" that there would be less need for children to be removed from their own homes.

Tribal government could play a very important role in bringing about such a coordinated, comprehensive approach to serve their people. There is almost no agency or program that is on a reservation that is either not under their control as the sponsoring agency or there to be responsive to them and they certainly have the prerogative to insist that these agencies work together to provide maximum services to their people.

3. The states, through their public welfare departments, are the primary service agency responsible for providing child welfare and other social services to Indian people on the same basis as other citizens as mandated by the Social Security Act. The State obtains Federal funds on a matching basis to provide these services to *all* citizens regardless of residence and they are required to submit a State Plan outlining how they will provide these services in all political sub-divisions of the state. Tribal governments are reluctant to become fully involved in state-administered programs fearing that this might mean subjecting themselves to state jurisdiction. And State agencies withdraw or limit their services because of their concern (real or imagined) regarding their "authority" to provide services to Indian people on the reservation. The "bugaboo" of jurisdiction has seriously hampered both governmental entities in the full provision of services that could be of help in serving Indian families and children. The present posture of the State of North Dakota is a good example of the negative effects of the problem of jurisdiction as it affects the lives of on-reservation Indian families and children. At the same time, it also contains the elements of a satisfactory resolution to the problem. In 1970 the Attorney General of the State of North Dakota issued an opinion which indicated the State did not have the authority to license foster homes or provide protective services to Indian children on the reservation. They also prohibited their workers from investigating cases of alleged neglect, abandonment, or abuse, filing petitions in tribal court in behalf of Indian children in need of protection, appearing in tribal court, or making recommendations to the court on the placement of Indian children. This action immediately brought into question North Dakota's conformity to the provisions of Title IV-A (Aid to Families with Dependent Children—Foster Care) under the Social Security Act, and State Letter 1080 from the Department of Health, Education, and Welfare. Under AFDC-FC, the states were mandated by law to provide services to children eligible and in need of such services in *all* political sub-divisions of the state. The state was mandated to provide services to families and children and if needed pay for the care of children outside their own home if they met the eligibility requirements: (1) if the child was removed from the home of an AFDC family; (2) if the family had received AFDC at any time six months prior to the removal of the child from the home, or (3) if the family would have been potentially eligible for AFDC at the time of removal of the child from the home.

Another important eligibility factor is that there must be a court order from the court of competent jurisdiction removing custody of the child from the parent. State Letter 1080 specifically stated that tribal courts were to be considered courts of competent jurisdiction for purposes of implementing AFDC-FC. One other provision was the fact that the child must be placed in a licensed or approved foster home. North Dakota in conforming to the Attorney General's Opinion obstructed the implementation of AFDC-FC for the benefit of Indian children. They did not recognize the tribal courts as the courts of competent jurisdiction by prohibiting their workers from petitioning or appearing in tribal court or making recommendations to the court on the placement of Indian children. They would not license an Indian foster home on the reservation since they had no "authority" to do so, making it impossible to place an Indian child in need of such care in an on-reservation foster home (although they did later agree to accept the alternative of "approved" foster homes as sufficient to make payments) although they offered no services to the child in the foster home, or to the parents in an attempt to plan for the return of the child at some future time. After the threat of the withdrawal of Federal funds, North Dakota did agree to make payments to "approved" foster homes. They left the criteria, judgement, and certification of approval of these foster homes to the Bureau of Indian Affairs and/or to the tribes of North Dakota. The Bureau of Indian Affairs has no authority to approve such homes, and the tribes were left to guess what constituted an approved foster home. However, at least two tribes, the Turtle Mountain Chippewa Tribe and the Devils Lake Sioux Tribe, have adopted standards for the approval of foster homes that they feel are acceptable to them and to the respective county welfare departments serving their reservations. It is my observation that this is a concession on the part of the State of North Dakota rather than a true acceptance of the sovereignty and dignity of the tribes involved. To date I know of no sincere effort on the part of the North Dakota Social Service Board to engage in any meaningful discussion with the tribes of North Dakota to resolve these issues in a way that would be most acceptable to these tribes, and to demonstrate that the State of North Dakota is sincere in its pronouncement that they recognize and support the wish of Indian people for self determination. Because of the situation in North Dakota, I see a chance for that state to assume a leader-

ship role in developing a working relationship with the tribes in that state that would maximize Indian involvement and participation in the resolution of these problems and be a model for other states; however, it appears to me that they choose to resolve the issue in the courts. The ramifications of the North Dakota Attorney General's Opinion are now being extended to other areas. The Devils Lake Sioux Tribe at Fort Totten, North Dakota, recently submitted a proposal to the State LEAA Program to fund a juvenile counselor position to work with the tribal courts.

The proposal was approved but the Tribe was told it could not be funded because the State had no "authority" to enforce accountability on the use of funds. Perhaps my perception of how these problems might be resolved is unrealistic and the courts are the only avenue for final resolution.

South Dakota was concerned about the same issues but chose to implement AFDC-FC and other services; however, they expressed concern about the tribal courts and tribal court orders. In some cases, the tribal court order removing custody of a child from his parents was only one sentence signed by the tribal judge. They did not feel that this was adequate to constitute sufficient authority for them to act in behalf of the child referred for services. Although this may appear to be more concern about form than substance, such is not the case. The State of South Dakota was hopeful that the court order would reflect the fact that the process for juvenile court hearings as outlined in the tribal codes was being adhered to to protect both the interests of the family and the child before they assumed responsibility for service or placement as ordered by the court.

Another factor not touched on previously that was a prohibiting factor in the licensing process for foster care is the fact that a foster home or group care facility must have a fire inspection as a part of the process. In both North and South Dakota there are Attorney General's Opinions indicating that the State Fire Marshal has no jurisdiction on the reservation to make such inspections since they had no enforcement authority if they should discover deficiencies in these facilities. I understand that this may have been modified in the State of South Dakota.

4. These two situations illustrate another problem. The failure to consider the effects of policy decisions, regulations, and laws on Indian people. Although they are distinctly a minority (in numbers) those who develop policy and implement programs cannot continue to ignore the effect of these decisions on Indian people because of their special relationship to the Federal Government. In this case there should have been more specific language in the law, or specific interpretations about the provision of these services on Indian reservations. This failure constantly appears in other programs; i.e., Food Stamps, Supplemental Security Income, and others; and this failure results in Indian people not being able to fully participate or derive full advantage of programs developed to meet human needs.

5. There is a need to review and update tribal codes to provide tribal courts with the tools to be able to deal more effectively with juvenile court matters. It is my feeling that the tribal courts should be removed from the arena of tribal politics.

The tribal court cannot be effective if it is subject to the pressure of tribal politics. I also believe that the juvenile court should be a separate court and the juvenile court judges should have access to all of the training necessary to assure that they can effectively carry out the awesome responsibility of deciding the fate of families and children who come before them for help. It is my belief that the juvenile court should not be a punitive court unless it has no other recourse. Perhaps a more appropriate title would be a Family and Children's Court. Such courts should have a staff under their supervision who could do pre-hearing investigations, assume responsibility for probation services which would include providing services to the whole family under the jurisdiction of the court. In addition it is hoped that the court would also have access to all of the resources necessary to help the family and the child.

6. In the last two or three years, there has been an awakening on the part of the tribes in the Aberdeen Area about what is happening to their children. It is not to say that there may not have been such concern in the past but in this period of time, I have notice a decided increase in the ability and willingness of Indian people to express this concern loud and clear. This sub-committee hearing is very clear evidence of this expressed concern. It has led to a variety of actions, the development of on-reservation group care facilities and services, and the passing of resolutions on the part of tribal councils prohibiting the placement of their children off the reservation. In the past such placements might

have gone unnoticed. This is not the case today. This very definite statement and attempts to enforce this mandate have led to conflict which has sometimes been productive, and has sometimes led to problems that remain unresolved. Despite the charges of "kidnapping," insensitivity, ignorance, and prejudice leveled at social workers (all of which may be justifiable in certain instances) I doubt if anyone here would envy the social worker who is called at 2:00 a.m. to drive fifty to one hundred miles to a home where children have been left unattended from one, two days, or even up to a week with little or no food or heat and be asked to find a temporary placement for the children. Unless you have experienced it, you do not know what it is like to locate relatives of the child only to have them tell you they do not want to take the children because it will only cause hard feelings with the parents, or they do not want the parents coming around bothering them. You finally find a home, usually an old standby family with a big heart and room for one more child. You arrive home just in time to clean up and go to work at 8:00 a.m., and you pray that the parents will show up and may be you can return the children to them then or work out a plan to return them as soon as possible. Sometimes it is necessary to use a non-Indian home or a home off the reservation and then you must face the decision of violating the mandate of the tribe, or doing what you feel must be done to care for the children and suffer the consequences.

This is an emotionally loaded issue but I would hope that there will be a time when the heat will decrease and there can be discussion and resolution to some of the problems I have referred to and many others that lay beneath the surface. Such issues as the need for institutional placement off the reservation for specialized services or treatment for certain children, the rights of the tribe, and the rights of parents to decide what is in the best interest of the child; i.e., the unmarried mother who insists that she wants her child placed with a non-Indian family off the reservation or the parents who feel that the services of an agency or institution off the reservation would better meet the needs of their child than an on-reservation group care facility.

Some situations that jeopardize the lives of Indian children cannot be resolved by the tribe or any social service agency. I am referring to some of the cases described by the Association of American Indian Affairs in *Indian Family Defense*. There is no law that prohibits a parent or parents from doing what they feel is in the best interest of their child or children including consent for them to leave the reservation and reside with another person or family, or to attend any school including a Federal boarding school. When such an arrangement is found to be harmful, or if the parents request the return of their child or children then social agencies, or legal assistance should be immediately available to assist them in assuring the return of their child or children. The only protection against such situations is the strengthening of the Indian family and helping them to see that as difficult as things may be, they can offer their child the one thing that no one else can provide, security and love. These things cannot be traded, bought, or sold.

#### SUMMARY

There must be a re-emphasis on our National priority to preserve the family. The first priority must be to make every effort to assure that children remain with their own families. This takes money and manpower neither of which are now sufficiently available. The need for funds to provide care for children who are removed from their own homes seems more easily understood than the efforts to serve families and make it possible for children to remain in their own homes.

Legislation must be developed, studied, and reviewed for the effect it will have on Indian people in view of their special relationship to the Federal Government. Because this is not done and special provisions are not made that give recognition to this relationship problems develop that deny Indian people equal access to services and benefits under these programs. Indian people must be involved in this whole process.

There must be a clarification of the role of various Federal agencies in the administration of these programs. Many times Indian people view the Bureau of Indian Affairs as the primary service agency, when in fact in the case of child welfare services, the state is the primary service agency through block grants provided by the Department of Health, Education and Welfare. The State is required to submit a plan to indicate how these funds will be used to implement these services in all political sub-divisions. Because of the unique problems that arise in providing such services to on-reservation Indian people, they should be involved with the State in developing the provisions of the State Plan relating

to services on reservations. If a State is unable or unwilling to develop such special provisions then perhaps consideration should be given to providing funds directly to Indian tribes for provision of these services.

Funding for programs and services should be reviewed and changed. At the present time an Indian tribe may develop a proposal for a program that they consider as a basic service needed on their reservation, or they may develop an innovative program that they feel meets their particular needs. They soon discover that this cannot be funded through regular funded programs; however, they may be referred to another agency with a department only to be told that funds for that particular proposal are not yet available, or have already been committed. They may receive encouragement and be told to submit a proposal; they do so; and it may be approved and funded for *one, two, or three* years. They are told that they, during this time, must be seeking other avenues of funding and support if the program is to continue, and they are told if they really care about continuing this program that they will find these alternative resources. Funding agencies seem to ignore the fact that if the tribes had the money to support such a program, they would not be coming to them in the first place, and it is highly unlikely that this mystical "alternative resource" is going to be available at the end of the funding period. More and more tribes are being asked to commit revenue-sharing funds to initiate or provide continuing funding for such programs. It is impossible for a tribe to meet the requests for funding out of revenue sharing. Funding agencies also seem to ignore the fact that the economic base to continue such programs is not present on most, if not all, reservations to continue support of many basic and valuable programs developed to meet the needs of their people. Funding agencies must have the funds available to continue support of basic, demonstrably effective programs. Adequate funding must also be available to carry out mandated services such as day care and homemakers services. It is incomprehensible to me how in Region VIII there were no funds available through the Department of Health, Education, and Welfare or any other agency to assist the Devils Lake Sioux Tribe in their effort to start a day care center on the Fort Totten Reservation when the emphasis is on relieving the welfare rolls by getting people into the labor market.

The primary purpose of this day care center was to provide care for children of parents who would be employed in the Devils Lake Sioux Manufacturing Company (a firm with an employment potential of 200 people). Technical assistance was available to explore funding resources, but no money for a very basic community service.

5. There must be a mechanism developed to assure dissemination of information on funding resources available for various programs. Many times Indian tribes or groups have no information on programs so they lose the opportunity to apply, or they receive the information a week before the closing date for applications. This leads to a rather hurried attempt to develop a program proposal to submit for funding that does not allow sufficient time for real planning and development. It does little good to throw together a proposal in the hope that it will be funded without sufficient time to really develop a meaningful proposal, see where it fits in relation to other programs, and fully understand the requirements of the funding agency in the administration of the program that has been developed.

6. State and Federal agencies must give more than "lip service" to the concept of tribal sovereignty and the right of self determination of Indian people. They must be willing to meet with tribal governing bodies as equals to discuss the implementation of programs on reservations. They must also be willing to seriously consider amending or changing state laws to reflect this recognition of tribal sovereignty; i.e., Recognition of tribal courts on the same basis as other courts within the state for purposes of commitment to state institutions if it is the desire of the tribes that their people have access to the services of these facilities.

7. Indian tribes must continue to study their position with regard to the services provided to Indian families and children. The adoption of Indian children is not only an emotionally-loaded issue but it is a very complex legal issue in which the rights of the tribe and the rights of the individual tribal member must be carefully explored. Tribal codes must be amended in the area of adoption, domestic relations, and the administration of the juvenile court system. No one who has seen the problems resulting from the removal of Indian children from their families and placement with non-Indian foster families can disagree with the concept that these children can best be served in their local communities or on their own reservation, if possible, or placed with Indian families rather than with non-Indian families. This is another issue that Indian people must come to grips with and resolve. There is the feeling on the part of some tribes that children

from their reservations should only be adopted, or cared for by tribal members from that particular reservation, and even further that the family adopting or providing foster care must live on that reservation.

Just for illustrative purposes, and not that it is a fact, this would mean that a family who are members of the Devils Lake Sioux Tribe living off the reservation in Devils Lake (thirteen miles away) would not be acceptable to provide foster care and adopt a child from that tribe. Other tribes take the approach that the important concept is the fact that the child be placed with an "Indian" family regardless of tribal affiliation. Or in some cases a tribe may not want to limit their options and consider placement (primarily foster care rather than adoption) with a non-Indian family off the reservation to meet the particular needs of the child with the assurance through tribal court order that they (the tribal court) still has custody of the child and has the right to ask for the return of the child to the reservation if necessary.

8. Tribes must develop a local service and monitoring system such as a strong tribal welfare committee to become knowledgeable about and involved with the whole process of assuring the rights of families and children, and becoming involved in the placement process and follow up on children placed in foster care. Here again there is the need for adequate financial support for tribal welfare committees to do the job they need to do.

9. No one can legislate away intolerance, prejudice, insensitivity, or ignorance and many of the evils of the placement of Indian children in the past arose for these reasons (this is not to say that things are perfect now) but both agencies and Indian people can have considerable impact on this situation. Employees selected to work on reservations should be carefully selected and wherever possible Indian people should be employed. Many agencies complain that they cannot find qualified Indian employees, but also seem to be unwilling to consider hiring people at a lower level and then assuring them that they have training to raise their level of competence, and seeing that this training is provided. Non-Indian employees at every level should be required to undergo a continuous training process developed by Indian people on the reservation where they are employed to help them better understand the customs, traditions, and life styles of the people they are working with. These people must also be a part of the community and be willing to participate in the activities of that community.

I was told that my statement was to be brief but I found it impossible to do so and I appreciate your consideration in allowing me to present my statement. I would like to close by saying that I give my support to the efforts of this Subcommittee in the hope that the end result will be the strengthening of the Indian family and the preservation and protection of our hope for the future, our children.

Senator ABOUREZK. The next witness is Mr. Leon Cook, Department of Indian Work, Minneapolis, Minn., former president of the National Congress of the American Indians.

Is that right?

Mr. Cook. Yes.

Senator ABOUREZK. We would like to welcome you to the committee.

**STATEMENT OF LEON F. COOK, DEPARTMENT OF INDIAN WORK,  
MINNEAPOLIS, MINN.**

Mr. Cook. Thank you, Senator.

Mr. Chairman, I haven't a formal written statement but I do have a factsheet that I'd like to allude to in talking about the adoption and foster home program in the State of Minnesota, or the lack of them.

Many of the issues that I think we are talking about today, I think recommendations were made, particularly Mr. Byler and his associates, in terms of the legislative recommendations. I wholeheartedly subscribe to and support.

In terms of my association with the position, or my position with the national conference, I'm looking at things that I've alluded to in the past and that have been said before so many times that Indians

throughout this country have been the victims of all kinds of systematic forms of genocide, and the situation where we're confronting what we call in Indian country, an infant crisis is another form of that systematic form of genocide of our Indian children.

Again, what has been alluded to and what it amounts to is that in lieu of subsidy for what used to be guns and soldiers we're losing our kids by law, legislation and policy that alluded to the impact of Public Law 280. We're talking about BIA Federal, State, county policy as it relates to adoption and foster home placement of Indian children and we're looking at the laws within each respective State that has Indians and has to do with relinquishing of Indian rights and Indian children.

One suggestion that I might make and has been alluded to in your bill S.J. Res. 133, I'm sure they intend to review the question of sovereignty of Indian tribes. In that respect, I think both the Congress, on the one hand, and the executive branch of Government on the other, as well as the Indian community have been somewhat remiss if the Indian community is to subscribe to and frivolize their sovereignty. One of the difficulties is that the parties are not really utilizing their sovereignty when it comes to the adoption of Indian children or their placement.

In Minnesota, for instance, we have an estimated minimum of 1,413 children, under 18 years of age in adoptive homes. One out of every eight Indian children under 18 is in an adoptive home in Minnesota. An estimated 104.4, as Mr. Byler alluded to this morning, under 1 year of age in Minnesota are in adoptive homes.

To state another way, one out of every four Indian children born in this State, Minnesota, is placed up for adoption. A projection of that rate, and we're looking at a situation that in 10 years, one out of every four Indian children under age of 18 will be in adoptive homes in the State of Minnesota. That's 25 percent of all Indians in a generation would have been brought up by adoptive parents who are non-Indian.

We did a survey in the spring in Minnesota of 100 State wards and only 1 was in an Indian home.

One of every six Indian children in Minnesota was adopted in the last couple of years, instead of compared to 611 non-Indian children. Indian children in Minnesota today are adopted at the rate of eight times the number for non-Indian children.

Infants under 1 year old are adopted there at the rate of 8.3 or 139 percent greater than the rate of non-Indians in the State of Minnesota. Indian children are in adoptive homes at the rate of 5 times that for non-Indian children.

At current rates, one out of four Indian children will be in adoptive homes in 10 years. At the present rate, the comparative rate difference between Indian children and non-Indian children if the present trends continue will be 1,000 percent, or greater, within 10 years.

At the current rate, one out of four Indian children will be, pardon me; there are a minimal of 252 Indian children in foster care in 1971 and 1972 in the State of Minnesota. This again represents, 1 out of every 48 children.

The result being that the minimum 262 Indian children under 21 are in foster care in Minnesota, or again, 1 out of every 48 children.

Indian children are placed in foster homes minimally four to five times as often as the non-Indian children in Minnesota. There is an average of 259 Indian children in foster care in Minnesota in any given year.

Now all of this in terms of facts may sound a little bit staggering, but when we look at the, what I call the lack of responsibility of the Federal Government, particularly the Bureau of Indian Affairs in Indian communities, is no different with foster care and adoptive care for our Indian children. Here we're talking about natural resources, and they are, in fact, one of our communities natural resources.

Again, looking at the abrogation of that responsibility on the part of the Federal Government in past years, but what it is complicated by now is that we're looking at a situation where county governments and State governments working not with the Bureau of Indian Affairs, is really what I call a supply and demand situation of Indian children, where the past practices have simply been where you've got numerous demands for Indian children by non-Indian people in the United States. For the slightest reason whatever Indian children are systematically stolen from the parents under one guise or another, mostly by denial of due process of law, by prejudice and it's removal of any children from their homes, by prejudiced standards for recipient homes, particularly on our reservations, but nevertheless a systematic theft of Indian children by all these agencies, and in addition to that, private agencies in placing Indian children in adoptive home placement in non-Indian homes.

It's only been very recent in the State of Minnesota that our community, our Indian community, has taken an active role in participating in questioning and inquiring into this State and county, as well as the Federal Government policy and church policies of adopting Indian children and placing Indian children in foster homes.

We've got in Minneapolis, two Indian group homes. One of the difficulties we're facing is that when we confront State and county governments and private agencies about the need for new Indian foster homes, we're also reminded of the fact that there are all kinds of group homes. It's always incumbent upon us to have to explain that those two in Minnesota, one for girls and one for boys, but the girls in particular was the first such Indian group home in the country, much less in the State of Minnesota, much less in the city of Minneapolis.

So, what we are looking at, first of all, some kind of standardizing of the rules and regulations regarding removal of children from homes.

Secondly, some kind of standardizing of homes that would be recipients of Indian children, both for adoption and foster home placement.

On the other side of the coin, I speak at a number of different vantage points. I am personally an Indian orphan. My mother left when she had me. My father died when I was seven. I was raised by my larger family, that being my grandfather until he died, and then one of my aunt's—my dad's sister. I was raised on a reservation until such time that I left of my own discretion.

At the same time, I had a very good friend that I used to move around that State with that had a different kind of experience. We both grew up about the same time.

In terms of a parallel, like Dr. Westermeyer alluded to this morning, our parallels were something like this; I left the reservation, at my discretion, and went to prep school. My friend wound up in our State youth reformatory. I went to college. He wound up in a mental health security prison. I went to graduate school and he wound up in our State penitentiary.

That is not an unusual pattern. I think that the kind of testimony alluded to this morning supports the fact that I think that the two kinds of upbringing, either mine or my friend Joe's and mine was being raised on the reservation and incidently, I was raised in a two-room house and there was 14 people in it, 12 other children besides myself. It didn't have any adverse effect on me, I don't think, emotionally, or socially, in recognizing that we were in a poverty situation. I hope to think that I came out right after that kind of experience.

One of the other situations we find is that most of our youth homes in this State and institutions for delinquent youth, I had an experience a year ago this spring where I addressed a number of people in the city of Minnesota and where a number of kids from the State home school were present.

After I talked to them, a number of the kids came up to me crying. I said I thought I gave a fairly good speech but I didn't intend to have everybody crying after I got through. What had happened, the kids came and said they really didn't know all these things about our communities.

I said, like what? They said we were told that we couldn't go to our homes if we didn't have a permit to go back to our reservations. We were told that we had to have such permission to visit our relatives on our home reservations. We were told that we couldn't be given any information about who our parents were and where our home reservations were, or whether or not we were enrolled in our respective communities.

These kinds of situations, in my mind, are not exceptions. I think it is true all over in communities across the country.

The situation that we are confronted with is not only a need for simply, I think, minimal legislation, but I think the question of sovereignty, the question of whether or not the present policies that are fostered both by the Federal Government programs, by State governments and county governments, are in fact another form of systematic form of genocide of the Indian people. At least they appear to be institutionalized forms of infanticide, if not institutionalized genocide of Indian people.

I think we need to look at the repeal or some kind of repeal of 280. I think that has a lot to do with that, because what has happened is that States, particularly, have extended, what I think their jurisdiction is under Public Law 280 to have, in their own minds include their right, as they see it, to do what they feel like with Indian State wards or in the adoption or foster placement of Indian children. If they see that it is a responsibility that they have under the provisions of Public Law 280.

I think there again, we have to take a serious look at that being repealed altogether.

In terms of standards, I think it might be a little difficult but I think it can concievably be done, that standards, particularly, for the removal of, and for homes for Indian children in communities,

and it's urban communities where we have large numbers of Indians indigenous to those communities.

For instance, the Navajo Hogan complies and would not be ineligible to be a home for Navajo Indian children whether it be by a non-related Navajo family or the larger family of a particular tribe.

Looking at all kinds of possibilities, but I think, again, I want to encourage that when the reviews are done and when we have in fact 133 as a law, one of the areas that will be reviewed will be the question of sovereignty, not sovereignty in general, at least as to whether or not how it relates to the adoption or placement of Indian children and the governing of those espoused by the particular Indian tribes and governing bodies.

Senator ABOUREZK. Thank you very much.

I have a couple of questions. We heard this morning about cases in the past 2 years where the children have been literally stolen from the parents, and I think you were here when the testimony was being given.

What about those children who have been adopted under these procedures? Can we and should we go back and examine these cases where this has all happened and try to restore some kind of rights to the parents and the children?

Mr. Cook. I do think we really have a moral and legal responsibility to do that. One of the things that is happening, and as you all know I give a lot of addresses to all kind of groups and invariably I run into people that have either Indian children who are adopted or are in their homes as foster children, and of course, the kind of determination in the Indian community is a two-way street. One where Indians are becoming more sensitive about themselves and about the children, but on the other hand, the parents that have adopted or have foster children are becoming more and more sensitive. So, one of the things that is happening is that these people are coming to me and saying we'd like to have our Indian children become familiar with Indian communities. How can we do this.

I generally reply that I'd like to have some kind of injection from a bill to do that, but it can't be done.

What happens is that those children in those circumstances, and many, many children have been adopted in the last 5 or 10 years where Indian children have been in vogue in the community to adopt, is that these kids in adopted situations find themselves in a non-Indian setting in non-Indian families, Indian children, particularly when it comes to the age of dating, as something other than what they thought they were.

I think it stops clearly in their identity of being male and female, but they haven't learned to identify themselves as Indian or non-Indian.

All that leads to traumatic kinds of situations where we're finding ourselves in situations where they are committing suicide, dealing in drugs and alcohol, those kind of things, school dropouts, juvenile behavior and all kinds of non-normal kinds of behavior as resulting from their finding out just who they are and what they are, and prior to that point in time, the teenage point in their lives and all of a sudden we're finding ourselves with all of those children now before our juvenile judges, criminal courts in the State institutions.

I think that should be at least reviewed. I don't know whether it is possible to do. I think there are many adoptive and foster home places that really have done this with good meanings intended but the results have been traumatic.

Senator ABOUREZK. Mr. Brennan implied during his testimony that the present feeling about child welfare in the Dakotas, is it was quite possible that the BIA in the States could implement child welfare reform to adopt the further legislation.

But my question to you, is it not possible that this is only true because of those tribes that have been protesting the present situation in the Dakotas? And, wouldn't it be preferable for them not to be at the mercy of the good will at the BIA and the State, and wouldn't legislation which prescribes tribal control provide a guarantee that presently does not exist?

Mr. Cook. I think BIA and the State welfare workers have been carrying on like at Auschwitz and I don't think they're going to change overnight. I think that the only way you're going to change is to establish law and legislation to forbid and prohibit that kind of mass adoption and theft and placement of Indian children. I don't think anybody in the county government, or BIA is going to do that voluntarily. If they were going to do that they would have done that a long time ago.

Senator ABOUREZK. I don't have any more questions and I merely wanted to express my gratitude for our committee for your coming here to testify here today. I appreciate it.

The next set of witnesses is Mary Ann Lawrence of Pine Ridge, S. Dak., and Mr. Richard Lone Dog of Rosebud, S. Dak., who is presently director for the Rosebud Detention Center.

I would like to welcome both of you to the committee. Do you have any prepared statements?

Ms. LAWRENCE. No; I don't.

**STATEMENT OF MARY ANN LAWRENCE, PINE RIDGE, S. DAK., AND RICHARD LONE DOG, ROSEBUD DETENTION CENTER, ROSEBUD, S. DAK.**

My name is Mary Ann Lawrence and I'm from South Dakota, Pine Ridge.

Senator ABOUREZK. What is your present position Mary Ann?

Ms. LAWRENCE. Director for the Indian family defense project and I work with the Association on American Indian Affairs.

Working with the family defense project, I took a survey of the Rosebud Indian Reservation. I visited families, a lot of people about child welfare trying to find out how much interest they have in child welfare.

Through these interviews I found out that there was quite a few of the people, through the children of the health welfare, not only in South Dakota but across in Nebraska, the Nebraska State welfare has taken a lot of children from the people.

Senator ABOUREZK. When you did the interviews, did you compile any statistics or numbers or people and so on?

Ms. LAWRENCE. Yes, but I don't have it with me.

Senator ABOUREZK. Would you like to send it in to the committee?  
Ms. LAWRENCE. Yes.

Senator ABOUREZK. We will hold the record open for 2 weeks if you will send it in when you get back. We would sure appreciate it.

Ms. LAWRENCE. All right.

Senator ABOUREZK. Go ahead, Mary Ann. What did you find out from the interviews?

Ms. LAWRENCE. I found most of the people are concerned about the Indian children, but it seems to me like once an Indian family loses a child, they give up. They don't try anymore. Their minds are already made up.

Senator ABOUREZK. You think once welfare takes a child away from them?

Ms. LAWRENCE. Yes; that's right.

Senator ABOUREZK. What about the extent of legal help from lawyers that they get or don't get?

Ms. LAWRENCE. Most of the people that I've interviewed don't seem to realize that they can get legal help.

Senator ABOUREZK. What did you find out when you advised them there was legal help available to them through tribal poverty lawyers or other sources?

Ms. LAWRENCE. Why didn't anyone tell them?

Senator ABOUREZK. Did any of them feel like they wanted to go back if they could get legal help?

Ms. LAWRENCE. Yes, most of them.

Senator ABOUREZK. Did they try them, to your knowledge?

Ms. LAWRENCE. Yes. Some of them right now are trying to get their children back.

Senator ABOUREZK. Do you think it would be good to have a requirement that the welfare agencies and an attorney be notified and appointed to represent the parents?

Ms. LAWRENCE. Yes, and the children, too.

Senator ABOUREZK. And the children? Do you think that would be a good requirement to have into law?

Ms. LAWRENCE. Yes.

Senator ABOUREZK. What would it do for the spirits of the Indian parents themselves? Would that be of benefit to them, you think?

Ms. LAWRENCE. Yes; I think so.

Senator ABOUREZK. What else did you find out in your survey, Mary Ann?

Ms. LAWRENCE. I found out that the Indian people are interested in foster home care but the problems most of them have—

Senator ABOUREZK. Excuse me. When you say they are interested in foster home care, does that mean they would be willing to take other Indian children in if someone wanted to adopt one out?

Ms. LAWRENCE. Yes.

Senator ABOUREZK. Did you find that in cases where Indian children were taken out of the homes that the welfare people in the area you surveyed were put in non-Indian homes or were they put in other Indian homes?

Ms. LAWRENCE. I found it pretty well mixed; some in Indian homes, some not.

Senator ABOUREZK. Do you recall the percentages?

Ms. LAWRENCE. No.

Senator ABOUREZK. That would be as particular as you can remember?

Ms. LAWRENCE. Yes. It seems that there were 43 places, or placement.

Senator ABOUREZK. In foster homes?

Ms. LAWRENCE. Yes.

Senator ABOUREZK. Do they have to be licensed by the tribe?

Ms. LAWRENCE. No, by the State welfare.

Senator ABOUREZK. Licensed by the State welfare agency.

How many of those were Indian houses and how many were non-Indian homes?

Ms. LAWRENCE. It was at least 19 non-Indian homes, the rest of them were Indian homes.

Another thing is, the requirements of the State's regulations are so strict that most of the Indian people could not get their license.

Senator ABOUREZK. How much is the license?

Ms. LAWRENCE. I'm not talking about money, about regulations. The regulations are pretty steep. Like if there is a family of five children, of the same family, are to be put in a foster home, the foster home may have four children of their own already. The State says they cannot take or have over six children in their home. Then this family, no matter how much they wanted to take all the five children to keep them together, cannot do it.

In other words, they have to separate the five children. I think that hurts the children a lot more.

Then we have the story about a 15-year-old boy.

Senator ABOUREZK. Would you like to tell that for the record?

Ms. LAWRENCE. Yes, I would.

I'll call this boy Sammy. He's 15 years old, and he has two little brothers, and Sammy was sent off to boarding school somewhere in Oregon or Idaho. I forget where it was.

Senator ABOUREZK. Was he from Rosebud?

Ms. LAWRENCE. Yes.

I have no idea who sent him off to the boarding school, or if it was his choice or anything about it. All I remember about this is that he was back for Christmas for vacation from having gone there. When I got there, when I pulled up, Sammy came out to the car, and I asked him if his parents were at home, and he said no.

I asked him if there was any adult I could talk to, and he told me no. He didn't want me to go near the house.

I had already gotten out of my vehicle and started for the door. I went up to the door and knocked on the door, and this lady came to the door. She was pretty well intoxicated, and she wasn't very happy to see me. She told me that if I was from the welfare agency or from the police department, she did not want to talk to me at all.

Senator ABOUREZK. Who was the lady?

Ms. LAWRENCE. I would rather keep her identity.

Senator ABOUREZK. I mean, was it his mother or what?

Ms. LAWRENCE. Yes, it was his mother.

And she told me then that she was having a party and she did not want to be disturbed, and if there was any more welfare workers

or police or anybody to come over, she said she would just as well send the kids with them and be done with it.

I tried to talk to her and she wouldn't listen. She ended up slamming the door in my face, so I wound up back at the car.

Sammy came up there and he told me that his mother was drunk and for me not to take offense at what all she said and that his mother was pitiful but right then she was drunk. And he wanted to know if he could talk to me.

It was pretty cold out, and I told him let's get in the car where it's warm. We got in the car and he started to talk, and he told me that he didn't want to go back to school. He wanted to stay and take care of his little brothers, and he was afraid if he went back to school, his little brothers would be taken away and that he didn't think that his brothers should leave their mother.

Before I left, he wanted to know if he could borrow a dollar so he could buy something to eat for his brothers.

He told me then that if I told anyone that his mother was drunk or anybody came over there to take the children, that he would take his little brothers and go up in the hills. He said that he knew a cave somewhere where no one would ever find them.

I talked to him and assured him that I wouldn't say anything to anyone, but that I would like to help the whole family if I could. Several times after that, I went back and I found the mother in the same condition, and when she was sober she was convinced that the whole community and the fact that all the people around her had condemned her the way she was drinking and carrying on. She didn't want to give up her children, and the children didn't want to leave her.

I worked with them and visited them several times and finally went to the probation and parole office, talked to the people there, and finally worked things out so that Sammy could stay and go to school there. So he's going to school there and he's now working part time. He's got his mother to where she's staying sober a lot more, maybe a few weeks at a time now. What she is doing now, she's taking her ADC check, when she cashes them, she lets Sammy have the family money.

He's been able to take his family to the movies a time or two since he's gotten a part-time job. I believe given a chance, he's working with his mother, and a lot more people did care about their people that are having problems; regardless of what kind of problem it is, I think these families could stay together and they wouldn't have to be separated.

I also know of six children that were taken by their paternal aunt after the children's parents were deceased. These children were taken to Tennessee, and the paternal aunt took the children. The tribal court let her have the children with the understanding that they will keep them together, but after she got them back to Tennessee, for some reason or another, she put these children in separate adoptive homes. She signed the papers for them to be adopted out, and the Rosebud Tribe is objecting to this.

They are, right now, trying to get these children back. As far as I know, they are waiting for an attorney to represent the children so they can be brought back to Rosebud Reservation.

Senator ABOUREZK. Mary Ann, do you have more of these things that you would like to tell to the committee?

Ms. LAWRENCE. Yes, if I can get my head together.

Senator ABOUREZK. There has been a rollcall vote just called. I'm going to adjourn just long enough, just 10 or 15 minutes, long enough for me to go over and vote and come back.

I will just be in there, and we will have just a short recess until that time.

So you will have a little bit of time to get your head together. You do very well; I appreciate it.

We will recess temporarily.

[A short recess was taken.]

Senator ABOUREZK. We will resume the hearing now. I'm sorry.

Would you like to go ahead and finish?

Ms. LAWRENCE. Yes.

Another thing I would like to talk about is the morale problem.

There was a case where she lost her children 13 years ago. There were four children that she lost, and she fought for these children for the past several years clear up until 1970, I think it was, that she finally ended up taking her case to the State supreme court.

It started out that she was picked up for some misdemeanor, and at the time, her baby was 4 months old. She was still nursing her baby when they put her in jail. She had her baby in jail for 17 days. The Nebraska State Welfare came along and took her children and the baby that she had in jail, and they went into the country where the father of the other three children had the children, and the county sheriff went out there with a court order and picked up the other three children. She was not married to the man at the time, but the children carried his name. They couldn't get married because the father was Japanese, and Nebraska would not recognize interracial marriages. So several weeks after she lost the children, she finally married the man.

She still hadn't got the children back. She went to the State supreme court, and the judge ruled in favor of the parents. So she waited to bring the children back, got clothes for them, bunkbeds and whatever, to get their home ready to bring the children back.

Then the judge changed his mind afterwards and told her she could not have the children back because they were in the process of adoptions. The two older children are in Omaha, Children's Home Society and the other ones have been lost for good. She has never found out where her other children are.

She came to me just about a month ago and wanted to know if there was anyone anywhere that could help her get these children back.

There's another case right there in Rosebud. A girl was in the hospital, an unwed mother. The welfare workers kept after her when she was in the hospital wanting her to sign papers for adoption and she did not want to give up her baby. She came to us and wanted to know if there was any way she could keep her baby and she still didn't sign the papers.

We went to look at something that we could get for the layette so she could take her baby home. We finally got some clothes for this baby and she took the baby home.

As of last week, she told me that the welfare workers are still wanting her to sign the adoption papers.

Those kind of things still go on right on the reservation. A lot of these children have been taken.

I feel like the tribe itself should have exclusive jurisdiction over all their members, whether they are on a reservation or off the reservation.

Another thing, is like this girl was kicked out of her own family's home when she became pregnant and she didn't have any place to go so she went to the man that was responsible and he also, when she had the baby, kicked her out. So, she didn't have any other place to go and that's why the welfare told her there is no other alternative, that she would have to sign adoption papers and give up her baby.

Senator ABOUREZK. Mary Ann, at this time I'm going to move on and let Richard testify. We're now running up against the time clock and I have to preside over the Senate at 5 o'clock and we have Richard and then Esther Mays from Detroit, Mich. yet, to testify.

I want to tell you how valuable your testimony has been, and of course we want to get the statistics you gathered. We would very much like to have those.

Richard do you have a prepared statement?

Mr. LONE DOG. No; I don't. I wasn't aware of this meeting. I was coming to Washington anyway and I think it was about Thursday night we heard it on the news.

Senator ABOUREZK. About these hearings here?

Mr. LONE DOG. Yes; about these hearings here. So, we weren't able to prepare a statement.

I might give you a little breakdown. I am the director of the detention center which deals in foster children. I am the director of the day care center and also the director of Good Hope Shelter. So, this is more or less in my area so they chose me to testify here.

My testimony here will not be as the director of the center, but as a member of the Rosebud Sioux Tribe.

I think everything that I would have to comment on today has been said over and over many times here. I have a few statistics here that I have gotten from the State of South Dakota and the number of Indian children that have been put up for adoption in that State.

I'll read these numbers off to you briefly. This is a memorandum to Diane Turten, superintendent of social services, or the supervisor of social services from the regional director of Tripp County Welfare, Winner, S. Dak.

Subjects, statistics regarding foster children and adoptions, adoptions statewide:

In 1967 to 1968 a total of 111 Indian children were adopted, 46 to Indian families, 65 to non-Indian families.

In 1968 to 1969, the total of 147 children were adopted, 57 to Indian families and 80 to non-Indian families.

In 1969 to 1970 a total of 144 children; 54 to Indian families and 90 to non-Indian families.

In 1970 to 1971 a total of 183 children were adopted, 67 to Indian families, and 116 to non-Indian families.

In 1971 to 1972, a total of 159 were adopted, 53 were adopted to Indian families, 106 to non-Indian families.

In 1972 to 1973 a total of 164 were adopted, 77 to Indian families and 87 to non-Indian families.

I think those figures are self-explanatory of the situation that we're in at Rosebud, S. Dak. at the present time.

In Tripp County, there were 12 children placed in individual foster homes. Eleven are non-Indian homes and one is an Indian home.

In Tripp County 12 Indian homes are licensed and, 12 non-Indian homes are licensed and 2 Indian homes are licensed. This is in Tripp County.

In Gregory County there are four licensed foster care homes; two non-Indian foster care homes.

It says here that approximately 10 percent were placed in Indian foster homes, of all the children that were placed in foster care homes in the State.

Foster care homes, 1973, there are 762 foster homes of which, approximately 100 are Indian foster homes. There are 363 Indian children in care statewide, of which 131 were in Indian foster homes and 232 were in non-Indian homes.

Statewide a total of 1,041, of which 353 were Indian. This is the number of homes statewide.

Foster care homes, 1,041 a total of which 363 are Indian.

So, that, in a sense, is self-explanatory.

For the State, or the BIA's failure to establish Indian foster care homes on the reservation is just the lack of concern for the Indian people. The BIA welfare office is basically a place where they write checks out. There is no communication between the home and the BIA as far as child guidance, home care, counseling, medical and dental. You've got 3 people in that office that is responsible for 6,000 people and I'm using 6,000 as a minimum figure.

So, this in itself is self-explanatory. All these people can do is more or less sit back there and hope to keep up on their check writing.

There is no day-to-day accounts of families, right on down the line.

I've asked them time and time again why is this so and their comment is that we don't have the staff, we don't have the money. But, why don't you have the staff and why don't you have the money since this is one of your trust responsibilities and again they're unable to answer this question. They say it's because it's not appropriated. But, why wasn't it appropriated, or if it was, why wasn't it funded.

Then we get into the area of finances on which I could go on all day, but this again is self-explanatory.

The inability of the BIA or the Federal Government to recognize their trust responsibility, not only to recognize them but to implement them on the reservation. Subsequently, the tribe has to do this themselves, with the moneys that they borrow or get from other agencies such as the State, LEA is one area, and right on down the line. This shouldn't have to be so.

We're talking about, basically, welfare here now, social services, which is a low priority on any reservation because the reservations are in the position now that everything is a crisis. So, when they get a dime, that dime is already spent on another priority. We can't spend that for home coordinators, that money is already spent. We've got to go up there and hassle the State and BIA to get funds to do this with. This is the position that I have been in.

I'll give you an example. The Detention Center provides the identical, same type of services as LSS and I know that not all of you are familiar with LSS, Lutheran Social Services.

We get \$8.36 a day for the children that we have there in the center from the State and from the BIA. The Lutheran Social Services gets \$30 a day per child for the same type of services that we supply.

We probably provide more services as far as moral services because we maintain these children there on the reservation, but this is the dilemma that we're in.

Indian foster care homes, for example, there's two elderly people that keep five of their grandchildren. They get \$35 a month per child to keep these people. Lutheran Social Services gets \$900 a month to keep an Indian child.

Senator ABOUREZK. How much?

Mr. LONE DOG. It's \$900 a month.

Senator ABOUREZK. A month.

Mr. LONE DOG. \$30 a day.

Senator ABOUREZK. Where do they get it from?

Mr. LONE DOG. From the State and BIA. We get at the Detention Center \$277 a month per child, but that's not \$900

So, this is the dilemma that we're in, in trying to establish Indian foster care homes on the reservations. They say, sure we'll set you up one if you can meet the State requirements and get a State license and right on down the line, but when we do meet these requirements and get all that, then like I say, we get \$8.36 a day while they get \$30.

And, the same way with these individuals that keep Indian children.

Getting back to this old couple that keep the five grandchildren. They get \$35 a month per child, while Lutheran Social Services get \$900 a month per child and then they wonder why there's isn't any Indians on foster care in the reservations. This is the reason why.

Two people that are living on old age and get \$35 a month for their child when the children range from 15 on down to 9 years old and have to send them to school, and all the other expenses that go along with it. Not only that, but whenever they get, like, this new bill that was passed to increase the old-age benefits. Sure, it increased the old-age benefits, but the State also deducted that amount on their welfare for those kids.

Then, they wonder why we don't have Indian foster homes on the reservations. This is why, because No. 1, the State requirements don't fit the reservation, period.

I'm not saying they're too strict, they just don't fit the reservation period.

The other thing is educational requirements. I mean, if we're going to staff the facility, we have to have people with B.S. and Ph. D.'s, masters, right on down the line, and where are we going to get those on the reservation, especially when you pay them \$2.50 an hour. Where are you going to get these types of people?

Education is fine. You can have a masters, a Ph. D. or whatever, but you're not going to be able to apply that education if you can't communicate with the child you're talking to.

These requirements don't meet our standards as far as reservations are concerned because we've got to have counselors, social workers, and

people that can sit down and communicate with these children on their level and these don't meet State requirements.

The situation that has been talked about here, and related to time and time again, kind of sets me back and makes me look back to my childhood because this is the same situation that I lived through from the boarding school era right on up the ladder, from broken family, foster care homes, and right on up the ladder. I was fortunate, I never got adopted out, but I can't say this about a lot of orphans; as far as the tribal court, and they imply that the tribal courts were a part of this setup. I don't know if you people are familiar with tribal courts, funded through BIA, they are tribal courts, right. But, who signs the check, who pulls the strings, which tune do they dance to?

This is the question we should be asking ourselves. I'm not saying this is so now, because in the past 2 or 3 years there has been a great movement away from this, through BIA contracts right on down the line. Maybe the tribes are forced into this thing.

My opinion is they were forced into it and it's not a good thing because they are assuming some of the trust responsibilities of the U.S. Government.

Senator ABOUREZK. Richard, there's been another vote call.

You've given some very good testimony and I wish that we could continue. What I'm going to have to do now is recess until tomorrow morning. The last witness, I'll have to ask her to come back; Esther Mays, if you will come in the morning at 9 o'clock I'll take your testimony then because I have to vote and I have to preside and there's not enough time to take any more witnesses today.

I want to express my gratitude, Richard and Mary Ann and all the other witnesses that have appeared today.

We are going to try to get something done to correct the situation. Thank you very much.

The hearings are recessed until 9 a.m. tomorrow.

[Whereupon the subcommittee recessed, to reconvene Tuesday, April 9, 1974.]

## INDIAN CHILD WELFARE PROGRAM

TUESDAY, APRIL 9, 1974

U.S. SENATE,  
SUBCOMMITTEE ON INDIAN AFFAIRS,  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met at 9:10 a.m., pursuant to notice, in room 3110 Dirksen Office Building, Hon. James Abourezk presiding.

Present: Senators Abourezk and Bartlett.

Also present: Jerry T. Verkler, staff director, and Forrest Gerard, professional staff member.

Senator ABOUREZK. The Indian Affairs Subcommittee will resume the hearings now.

The first witness this morning is from Detroit, Mich., Esther Mays. Esther, do you want to come to the witness table?

I want to apologize to you for cutting you off last night. I want to express the committee's gratitude for your staying overnight.

### STATEMENT OF ESTHER MAYS OF THE NATIVE AMERICAN CHILD PROTECTION COUNCIL, DETROIT, MICH.

Mrs. MAYS. Since you're handing out compliments, I'd like to compliment you on your timing. It's almost as good as ours.

My name is Esther Mays and I am from Detroit, Mich. The organization that I'm representing is called the Native American Child Protection Council. I am on the board of directors.

Pretty much of what I have to say is the usual thing that has been said from what I heard yesterday. However, I will go through the act again, so bear with me.

The Native American Child Protection Council is a nonprofit organization with present membership of approximately 50 families throughout the Michigan area. This organization was founded as a response to the needs of many Indian families, particularly as it relates to Indian children.

The problems are numerous and varied, especially in the area of child placement. Our organization is concerned with the practices and policies of various social service agencies as it affects the lives of the Native American community. Our organization is a response to the concern of many Indians throughout the State of Michigan regarding the treatment of Native American children. Through numerous inquiries to us from Indians, and various investigations of the policies and practices of social service organizations through the Indian community, we find many problems exist, such as: Indian children are being placed in non-Indian foster and adoptive homes